

INDEPENDENT MID-TERM EVALUATION

**United Nations Development Programme
Afghanistan
Justice and Human Rights in Afghanistan (JHRA)
Phase Two
Project ID: 00057613
Final Report
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7 December, 2014

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List of Acronyms and Abbreviations

AGO	Attorney General’s Office
AIBA	Afghanistan Independent bar Association
AIHRC	Afghanistan Independent Human Rights Commission
AI	Afghanistan Integrity initiative
AJDL	Access to Justice at District Level
APRP	Afghanistan Peace and Resettlement Project
ASGP	Afghanistan Sub-National Governance Programme
AWP	Annual Work Plan
ANDS	Afghanistan National Development Strategy
BCPR	Bureau for Conflict Prevention and Recovery
CBR	Capacity Building for Results Facility
CD	Country Director
CEDAW	The Convention on Elimination of all forms of Discrimination against Women
CID	Criminal Investigation Department
CO	Country Office
CPAP	UNDP Country Programme Action Plan
CSOs	Civil Society Organizations
CTA	Chief Technical Advisor
DHRWIA	Directorate on Human Rights and Women’s International Affairs
DIHR	Danish Institute of Human Rights
DIM	Direct Implementation Modality
EU POL	European Union Police Mission to Afghanistan
EVAW	Elimination of Violence against Women

FRU	Family Response Unit
GE	Gender Equality
GEP	Gender Equality Project
GiZ	Gesellschaft für Internationale Zusammenarbeit
HR	Human Resources
HRSU	Human Rights Support Unit
ICESCR	International Convention on Economic, Social and Cultural Rights
IGOA	Islamic Government of Afghanistan
IT	Information Technology
JHRA	Justice and Human Rights in Afghanistan
JSSP	Justice Sector Support Program
LAD	Legal Aid Department
LAGF	Legal Aid Grant Facility
LOA	Letter of Agreement
LOTFA	Law and Order Trust Fund for Afghanistan
MDTF	Multi-Donor Trust Fund
M&E	Monitoring and Evaluation
MOFA	Ministry of Foreign Affairs
MOI	Ministry of Interior
MOJ	Ministry of Justice
MOWA	Ministry of Women's Affairs
MTE	Mid-Term Evaluation
NDS	National Directorate on Security
NGO	Non-Government Organization

NIM	National implementation Modality
NLTC	National Legal Training Centre
NPM	National Project Manager
NPP	National Priority Programme
NTA	National Technical Advisors Programme
OM	Operations Manager
PLA	Public Legal Awareness
PLAU	Public Legal Awareness Unit
PPD	Policy and Planning Department
PSC	Project Steering Committee
ROL	Rule of Law
ROLIS	Rule of Law Indicators Study
SCt	Supreme Court
SDC	Swiss Agency for Development and Cooperation
SJSA	Strengthening the Justice System of Afghanistan
SRSG	Special Representative of the Secretary-General
TCC	Technical Cooperation Committee
TMAF	Tokyo Mutual Assistance Framework
TORs	Terms of Reference
TRAC	Target for Resource Assignment from the Core (funds)
TU	Translation Unit
UN	United Nations
UNAMA	United Nations Assistance Mission Afghanistan
UNCAT	United Nations Convention against Torture

UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
UNW	UN Women

Acknowledgements

The Evaluation Team is most grateful to all of those who extended assistance and shared their time and their thoughts and reflections in support of the Evaluation. Particular thanks are due to the Acting Minister, senior officials and staff of the Ministry of Justice, as well as officials of other state bodies, who assisted the Team. The Team also wishes to express its appreciation to the Chief Technical Advisor and the management and staff of JHRA, the Deputy Country Director, Programmes, UNDP Afghanistan, the Acting Officer in Charge, the Rule of Law Coordinator, and staff, of the Rule of Law Unit, and other departments of the UNDP Country Office. Appreciation is also extended to representatives of UNAMA and other UN agencies, as well as the World Bank, along with the representatives of the major donors to JHRA 2 (Denmark, Italy, the Netherlands and Switzerland), who were unfailingly helpful.

The Team also appreciates the willingness of representatives of the Afghanistan Independent Human Rights Commission (AIHRC) and the Afghanistan Independent Bar Association for making themselves available to meet with the Evaluators. The Team is also grateful to representatives of government Public Relations Departments (along with AIHRC), who were involved in training in India supported by the project, along with representatives of NGOs who had taken part in JHRA training programmes.

The work in Afghanistan could not have been completed without the support and patience of JHRA's cadre of excellent drivers. Members of the JHRA team, both managers and staff members, helped on numerous occasions in solving practical and logistical problems, as did members of administrative staff at the UNDP Country Office. Their support was greatly valued, as was the guidance and protection provided by UN Security and by the STRATEX management and security staff at Green Village.

1. Background to the Justice and Human Rights in Afghanistan 2(JHRA 2 Project) Adapted from TOR

Following continuous engagement in supporting Afghanistan's justice sector since 2002, UNDP assistance in the sector has now entered a new phase, with the implementation of the Justice and Human Rights in Afghanistan (JHRA) Phase 2. The Project draws on the experience of previous UNDP justice projects – Strengthening the Justice System of Afghanistan (SJSA), Access to Justice at District Level (AJDL) and Justice and Human Rights in Afghanistan Phase I (JHRA 1)

The 1st phase of the JHRA Project was implemented from June 2009 - 30 June 2012. The project was designed to support the achievement of the priorities and benchmarks on human rights, rule of law and justice as highlighted in the Afghanistan National Development Strategy (ANDS) and the Afghanistan Compact. JHRA I worked to improve access to justice at both national and provincial levels in Afghanistan. Programmatic interventions were undertaken by using a human-rights-based approach that simultaneously sought to strengthen citizens' capacity to claim their rights, while also enhancing the capacity of justice system actors to deliver justice in compliance with rule of law and human rights standards.

Project activities included raising awareness through training of justice officials and community members, including school teachers and students, as well as the general public and the population of villages throughout 11 districts in Afghanistan. It also engaged with the rehabilitation of district justice facilities and provided emergency infrastructure works and basic equipment to provide the facilities necessary to a functioning justice system. At the national level, the project assisted the three national justice institutions, including the Ministry of Justice (MoJ), the Supreme Court (SCt), and the Attorney General's Office (AGO) in strengthening their capacity to better contribute to the justice reform process and the realization of human rights in Afghanistan.

JHRA Phase II (JHRA 2) was initiated in January 2013. The Project builds on the work undertaken in Phase I and seeks to deepen the interventions at both national and provincial levels, while attempting to work across the justice sector and to involve rule of law service providers. JHRA 2 includes four components of overall strategic support, and contributes in particular to the Afghan National Priority Plans (NPP) on Law and Justice for All (NPP 5) and Human Rights and Civic Responsibilities (NPP 6). As its objective, following NPP5, JHRA 2 seeks to increase trust in Afghan justice institutions as the necessary foundation and prerequisite for the re-establishment of state legitimacy.

The Project has taken a comprehensive approach to its effort to support the building of trust in Afghanistan's formal justice system, where emphasis on increasing service delivery and access to justice, in particular for vulnerable groups, is combined with the facilitation of the required political leadership. These areas of emphasis are complemented by attention to structural and institutional mechanisms and safeguards to facilitate sustainable transition and development.

Similarly, support to justice sector service providers is balanced by support to citizens at local level, who would normally have difficulty in accessing the formal justice system.

JHRA Phase II **project outputs** are:

Output 1: High-level coordination mechanisms for developing policy and legislation in accordance with international and national standards are established and functional in State justice institutions.

Output 2: Mechanisms for providing quality access to justice services to vulnerable groups are established and functional.

Output 3: Public participation processes and knowledge base for improving access to justice and human rights compliance established.

Output 4: Project Support Unit: Internal oversight, monitoring and evaluation capacity in place.

The principal donors providing financial support to the project during 2013 and 2014 include UNDP, along with the Governments of Denmark, Italy, the Netherlands and Switzerland.

2. Introduction and Approach to the Evaluation

Introduction and Overview: The purpose of the Mid-Term Evaluation (MTE) has been to provide a broad appraisal of the project as planned and as delivered to date (January 2013 to September 2014). It has also looked forward, reviewing plans and objectives for the remaining period of implementation, from November 2014 to the end of December 2015. In addition, as directed by the Terms of Reference (TORs), the Evaluators have given consideration to identifying lessons learned and making recommendations, not only for the remaining period of operations for JHRA 2, but also for future justice/rule of law programming to be planned by UNDP to begin in 2016.

Since this is a mid-term evaluation, a particular focus has been on assessing issues relating to project strategy, management and administration, with a view to preparing short-term recommendations, where required, intended to enhance the quality of project delivery. Particular circumstances resulted in a decision by the senior managers of UNDP Afghanistan to hold a Management Review during the same period as the MTE. Fortunately, there were several opportunities for the International MTE Evaluator to confer with the UNDP advisor charged with conducting the Review. While there is necessarily some overlap between the two initiatives, this report does not deal in great detail with some of the specific issues central to the Management Review. It does, however, address some important management and operational issues central to the conduct of the project.

It is recognized that development programming in Afghanistan continues to present particular challenges, and these will be taken into account in analysis and the framing of the evaluation report. Given current concerns on the part of the international community to support the transition and transformation process through which the Islamic Government of Afghanistan (IGOA) takes on full responsibility for steering the initiation and supervision of major policy and programme interventions, particular attention will be given to issues of partnership, as well as matters relating to institutional and national ownership for major project initiatives.

The evaluation took place in the period from early August to the end of November, 2014, with the work undertaken by a team of two consultants: one international and one national. The field mission to Afghanistan began on August 26 and was completed on September 25, with the International Consultant departing on the following day. While the consultants worked together during the field mission as partners on a collegial basis, as Team Leader, the international consultant took on overall responsibility for the design and management of the evaluation, as well as for its satisfactory completion with the drafting of the final report.

The field mission was restricted to Kabul, primarily for security reasons, but also because of the limited time available to complete the long list of interviews and meetings with project principals, participants and stakeholders in the capital, necessitated by the rather broad scope of project activities. Regrettably, it was necessary to cancel a proposed trip to Herat. Even while staying in Kabul, as a result of repeated security alerts, and despite persistent efforts to reschedule meetings, the consultants were not able to meet all those that they had hoped to interview.

Despite these constraints, the Evaluators succeeded in meeting with key representatives from all principal stakeholder and beneficiary groups, through a combination of individual interviews, small group meetings and focus group meetings. In addition, an extended Skype interview was conducted by the International Consultant on his return to Canada with a key member of JHRA's management team, on professional leave in Somalia,

Approach to the Evaluation and Methodology: In planning the Evaluation and writing the Inception Report, the team followed the guidance provided in the TOR concerning the scope of work, issues of concern, outputs (deliverables) and methodology. In considering the list of evaluation issues to be addressed, attention was also given to drawing on the experience and the findings of the End-of-Term Evaluation of JHRA 1 carried out in 2012, for which the international consultant for the MTE of JHRA 2 was Team Leader. It is noted that, according to the Project Document, a number of the recommendations of the evaluation were taken into account in the design of JHRA 2.

The Final Report builds on the Preliminary Report, prepared prior to the conclusion of the field mission, which was also the basis for presentations, respectively, to donors and UNDP, as well as to government partners and stakeholders, on September 23 and 24, 2014. The presentation of

this Report follows the outline and topic framework set out in the *Preliminary Evaluation Work Plan and Inception Report*, delivered on August 26, 2014. The draft report was delivered in early November. Comments from UNDP were received on November 29, along with a detailed note from the Swiss Agency for Development and Cooperation (SDC). UNDP has advised that other donors elected to hold off any comments until they were in receipt of UNDP's Management Response to the final report. A number of changes, adjustments and additions have been made in completing this final version of the report, on the basis of the feedback and advice provided, which is acknowledged with thanks, as well as through the author's further efforts to improve the clarity of the text.

The core framework for organizing data collection and analysis is based on the key OECD DAC evaluation criteria: *Relevance, Effectiveness, Efficiency, Impact and Sustainability*.¹ In addition, the Evaluation will assess whether the different components of the Project have worked together in such a way as to strengthen the contribution to higher-level outcomes.

In terms of *the work process for the Evaluation*, the Evaluation Team collected data primarily through:

- Review of project documents, including annual work plans, annual and quarterly reports and financial reports, along with specialized reviews, assessments, plans and strategies developed for project components and sub-components;
- Consideration of IGOA, UN and UNDP planning and strategy documents, as relevant;
- Review of other resource materials, relevant to the understanding of the project context and of broader developments in justice and human rights in Afghanistan, as well as to key trends in donor strategies in the relevant sectors and in overall support to the IGOA.
- Interviews, discussion and small group meetings with key project stakeholders, including justice sector institutions, the AIHRC and AIBA, and non-government and civil society organizations engaged in project activities, donors, JHRA and UNDP management and staff, including JHRA consultants and partner organizations, including UNAMA, other UN agencies and other relevant UNDP projects.

3. Summary of Principal Findings

3A. Relevance

A1. The overall directions laid out in the project document are entirely consistent with priorities affirmed in both Government and UN policy, as well as in UNDP programming documents. As was also the case with its predecessor, Justice and Human Rights for All, Phase 1 (JHRA 1), all elements of the Project design for JHRA 2 fit within the parameters set out in the Afghanistan National Development Strategy (ANDS), which places emphasis on the urgency of strengthening democratic processes and institutions, human rights, the rule of law, delivery of public services

¹ Sustainability is not dealt with as a separate topic, but is addressed, as required, under other headings.

and government accountability. The implementation plan for the ANDS is articulated in 22 National Priority Programmes (NPPs).² Of these, two are of particular importance for JHRA 2: NPP 5, *Law and Justice for All*, and NPP 6, *Human Rights and Civic Responsibilities*. The project design reflects closely many of the key outcomes included in the two documents.

A2. To be specific, the project supports, to varying degrees, Components 1 to 4 of NPP 5:

- Improving the legislative process;
- Enhancing the efficiency of the justice sector;
- Increasing meaningful access to justice; and,
- Building institutional capacity to strengthen justice delivery.

For NPP 6, the project contributes to the following components (1-6):

- Strengthen Afghan institutions through mainstreaming human rights, supporting human rights accountability, and supporting civic responsibilities among state institutions;
- Raise awareness among the general Afghan population;
- Strengthen the independence and sustainability of Afghanistan's national constitutional and other specialized institutions;
- Support the contribution of Afghanistan's traditional and local institutions;
- Ensure effective measures are in place to establish justice and end impunity; and,
- Holding individuals, national and international institutions and the government accountable for the protection, observance and fulfilment of their human rights obligations.

A3. Similarly, the project's priorities are clearly consistent with the UN Development Assistance Framework (UNDAF) and Outcome 1.3 *Justice mechanisms are more effective and more widely used*. The Project also responds closely to the objectives and approaches prioritized in the UNDP Country Programme Action Plan (CPAP) for 2010-2014 and the Draft Country Programme Document (2015-2019). Outcome 2 of the 2015-2019 Document confirms the relevance of the key themes of JHRA 2, focusing on increasing trust and access to the justice system, with a particular focus on vulnerable groups. Because of its special relevance to JHRA 2, it should also be noted that Outcome 4 of the same document emphasizes social equity, with a primary focus on women. It is also noted that gender will be mainstreamed in all outcomes.³ Finally, the project, its priorities and its principal areas of activity, are also entirely consistent with the UNDP Afghanistan Rule of Law Strategy (2013), adopted after the project began implementation.

A4. All initiatives supported reflect priorities and needs of partner institutions, as well as those of the international donor agencies providing financial support to the project. The project design

² See UNDP Afghanistan, Rule of Law Strategy (2013), p. 6.

³ See: United Nations Development Framework in Support of the Afghanistan National Development Strategy, 2010-2014; UNDP Country Programme Action Plan 2010-2013, December 2009; UNDP, Draft Country Programme Document for Afghanistan (2015-2019).

was based on an admirably participatory process, beginning in February 2012 with a High-Level Mission, led by Professor Hussein, former UN Special Rapporteur on the Human Rights Situation in Afghanistan, joined by representatives from the Bureau of Conflict Prevention and Recovery (BCPR) of UNDP New York and the UNDP Regional Bureau in Bangkok. The process, which included consultations both on the formulation of the Project Document and on the content of initial drafts, stretched from February to August 2014 and involved a long list of consultations (39 separate meetings were held). The final details of the Project Document reflected detailed discussions and comments on successive drafts by donor representatives.⁴

A5. As with JHRA 1, 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 (SCt). Although all three partners have benefited to some degree from the project as before, it has been the MOJ which has been the primary partner for the Project overall, and which has received the most extensive financial and technical assistance. However, the Office of the Attorney General (AGO) is now playing a more prominent role than in Phase 1. The Supreme Court, like the AGO, is a key contributor to the Rule of Law Indicators initiative, and courts at provincial level are involved in a number of activities. In addition, new partnerships have been forged with the Ministry of Foreign Affairs, the Afghanistan Independent Human Rights Commission and the Afghanistan Independent Bar Association.⁵

A6. On the basis of interviews conducted for the Evaluation, it may be concluded that, for the most part, partners and beneficiaries are positive about the activities pursued by the project and view them as of value and responsive to their needs.

A7. JHRA has also made strides in ensuring that its initiatives are "owned" by its national Partners, and not merely viewed as "UNDP activities." This issue was identified a problem area by both the Mid-Term and End-of-Project Evaluations for JHRA 1. From this perspective, the project team has done well, with both established and new partner institutions.⁶ However, what appeared to be a very effective working relationship with the Ministry of Justice seemed to fall apart in May 2014, with the sending of a letter of complaint, under the signature of the Acting Minister, about the project and the conduct of the Chief Technical Advisor (CTA). Subsequently, many Ministry managers and staff have been instructed to cease their cooperation with the project.

⁴ For details on consultations, see UNDP, Justice and Human Rights for All in Afghanistan (JHRA) Phase II (1 January 2013 - 31 December 2015), Project Document, September 2102, Annex 1, pp. 86-87.

⁵ In addition, the Ministry of Interior, which is represented on the Project Steering Committee, is also a partner in provincial-level training for justice institutions, and in consultations on the domestic violence initiative. New partnerships are also under development with university law faculties in the establishment of National Legal Training Centres and legal clinics.

⁶ See: UNDP Afghanistan, Independent End-of-Term Evaluation of Justice and Human Rights in Afghanistan (JHRA), Final Report, prepared by Phillip Rawkins and Muhammad Arif Kamawi, 9 September, 2012; UNDP Afghanistan, Mid-Term Evaluation of JHRA, Summary of Findings and Recommendations, prepared by Fainula Rodrigues and Hangama Anwari, 24 July, 2011

A8. As will be discussed below in more detail, the letter listed concerns about the leadership of the project, and about its relations with the Ministry, while also raising questions about some decisions on resource allocation. The concerns raised, however, do not include major substantive issues concerning programming or project objectives.

A9. In the Final Report of the Evaluation of JHRA 1, attention was drawn to the absence of donor coordination in both rule of law and human rights, as well as more generally, as a negative feature in the enabling environment for the project and in causing duplication of effort. In 2014, the Evaluators find the situation greatly improved, although a few difficulties remain. The principal problem, though not the fault of UNDP, is the lack of coordination between it and the World Bank on legal aid, where the two organizations have taken different approaches.⁷ This problem continues, despite strong efforts to address it by UNDP both in Kabul and in meetings between the two institutions at the highest level in Washington. Similarly, members of the donor rule-of-law group in Afghanistan have also sought to persuade the Bank to cooperate with UNDP and JHRA.

Partnership and cooperation with Other UN Agencies and Other UNDP Projects

A10. For some years, on a global basis, the UN has been focusing on “*Delivering as One*”: a strategic effort by the organization to ensure that its agencies and programmes work closely together, pooling their expertise and avoiding duplication and competition for donor funds. In practice, because of a highly decentralized system, strong organizational cultures, long-established patterns of organizational and professional incentives, and concerns about organizational survival, it has proved difficult to make substantial progress on this agenda.⁸

A11. In Afghanistan, there are some signs of progress over the past two years, although efforts to mount joint programmes have ended in failure. In the case of JHRA 2, there are some positive examples of cooperation with other UN agencies and UNDP projects, most notably at provincial level, where the project has requested and received significant support from the offices of UNAMA, as well as from the Afghanistan Subnational Governance Programme (ASGP), in facilitating local activities and coordinating with provincial government officials. Similarly, in supporting training with local justice officials, the project has developed partnerships with

⁷ The difference in approach, as well as the difficulties the Bank has identified with the UNDP/JHRA initiative, are set out in a memorandum, *Comments on LAGF Procedures by World Bank Team*, October 2013. In a further clarification of the background to the apparent lack of synchronization between the two organizations, UNDP has made the following helpful observation (prepared in response to A9 in the draft version of this report): *JHRA was designed to complement the World Bank project, and from the initial period of the project, coordination efforts had been undertaken. The World Bank JSDP had a large budget for legal aid services for the Legal Aid Department of the Ministry of Justice (MoJ) to deliver the road map and capture the activities of the independent lawyers. However, there has not been any legal aid design produced by the MoJ or the World Bank. The JHRA Legal Aid design resulted from a two year consultative process and the Legal Aid Grant Facility (LAGF) filled an existing vacuum.*

⁸ The International Evaluator has some direct experience in addressing this issue, having conducted a review of UN Joint Programmes in Liberia in 2010.

UNDP's Law and Order Trust Fund (LOTFA), as well as with the UN Office on Drugs and Crime (UNODC) and the European Police Mission in Afghanistan (EUPOL). However, these arrangements are modest in scope and ambition, and there is little evidence to date of consistent efforts by UNDP to optimize inter-project and inter-agency cooperation in justice/rule of law.

A12. In a written note, quoted below, in response to the first draft of this report, UNDP has made a number of observations on the relations between UNDP and UNAMA: *UNAMA and UNDP have developed an effective working relationship - to the benefit of both parties. The two UN organizations co-chair the UN Results Group on Justice and Rule of Law and UNDP has provided funds and utilized other implementation modalities to support UNAMA to support the Rule of Law Indicators Study (ROLIS). Similarly, UNAMA has leveraged its political support and influence discussions with the Government and the ROL Board of Donors. This division of labour and its benefits is fully acknowledged and accepted by the two organizations and works very well. The only problem that UNDP sees is that both UNAMA ROL and the UNDP CO ROL Unit lack the capacity to further leverage their relationship.*

Despite this generally positive view, which is accepted by the Evaluation Team, in its view, there remain some gaps in communication and day-to-day coordination that should be addressed. Their importance should not be exaggerated, but it does appear that further work is required to enhance the effectiveness of collaboration between the two organizations

While things work reasonably well at provincial level, it is at headquarters in Kabul where working relationships, information exchange and practical coordination between UNAMA and UNDP are not as good as they should be. The organizations have very different mandates and approaches, and, while UNDP is dependent on donor funds on a year-to-year basis, UNAMA has secure funding. At the same time, UNDP has very substantial programming funds to work with, while UNAMA with its political and policy focus does not. Clearly, what is required is an effort to thrash out practical arrangements to enable these two rather different organizations to build on what has been accomplished and find better ways of working together and synchronize approaches. Perhaps, as UNDP suggests, the principal limitation is the lack of the human resource capacity of both the UNAMA and the UNDP CO ROL Units.

A13. It is not easy for Individual UNDP projects to solve problems in institutional relationships on their own. As it stands, they forge relationships with particular UNAMA units, depending on their substantive focus. For JHRA, the key relationships are with the UNAMA Rule of Law and Human Rights Units. The Rule of Law Unit works closely and effectively with the Rule of Law Unit in Country Office and the project on the shared initiative on Rule of Law Indicators (ROLIS). Despite this, there are some tensions stemming from the occasional failure by UNDP and JHRA to give advance notice of particular initiatives which are relevant to UNAMA's high-level dialogue with government. The situation with regard to relations with the UNAMA Human Rights Unit is similar, though in this case there is also some awkwardness over perceived infringements by UNDP in acting without prior consultation in taking on work perceived to fall

squarely within UNAMA's mandate. In part, such difficulties arise from different institutional agendas and shifting priorities, particularly where support to the Ministry of Justice's Human Rights Support Unit (HRSU) and the Directorate on Human Rights and Women's International Affairs of the Ministry of Foreign Affairs are concerned.⁹

A14. Gender Equality (GE) is a critical element of the JHRA programme, and this brings it into contact with both UN Women (UNW) and UNDP's Gender Equality Project (GEP). The key partner of both is the Ministry on Women's Affairs (MOWA), and cooperation with both MOWA and the provincial Departments of Women's Affairs (DOWA) is important to JHRA's work in legal aid, domestic violence, Community Dispute Resolution (CBR) and State/Non-State Justice Cooperation. In addition, the work of the Human Rights Support Unit (HRSU) of MOJ, supported by JHRA, includes efforts to strengthen GE Units in government, as well as assisting MOFA in reporting on CEDAW and responding to recommendations by the treaty body on actions to be taken by the government in moving Afghanistan into closer compliance with the provisions of the international convention. In addition, GE is a cross-cutting issue for the whole project. However, there are questions about whether sufficient attention has been given to mainstreaming gender in all components and activities. This is considered in more detail below.

A15. Both UNW and the GEP report relatively favourably on cooperation with JHRA, although cooperation with UNW has taken off only with the launching of JHRA's work on addressing domestic violence. It is also clear that there is room for a closer and more strategic approach to allow for joint planning with both UNW and GEP. It is also noted that the UN Population Fund (UNFPA) has a program of support to the Family Response Units (FRUs) of the Ministry of Interior, with offices in police headquarters at provincial and district levels. Involvement of the FRUs, and a strengthening of their capacities, will be one necessary component of the EVAW (domestic violence) initiative.¹⁰

⁹ In response to the corresponding paragraph in the draft version of this report, UNDP has provided a clarification, quoted in full below, which sets out its perspective on the background to relations since 2010 between the two UN organizations and the HRSU:

An initial concept note on the "creation of a Human Rights Support Unit (HRSU) within the MoJ" was developed in 2010 by the MoJ in coordination with UNDP, UNAMA and OHCHR. HRSU was established in 2010 through the passage of the Bill on the HRSU by the Council of Ministers. Subsequently programmatic interventions have been undertaken including hiring of staff by UNDP and MoJ. UNAMA Human Rights has placed a strong emphasis on monitoring and high level policy support and placed less emphasis on engagement with the HRSU. The unit is also often unable to provide capacity development inputs to the government. However, over the past two years HRSU and UNDP has tried to ensure the participation of the Human Rights Unit/UNAMA. In mid-2014, the UNAMA Human Rights Unit re-engaged with the JHRA on HRSU and increased engagement amongst others through the recruitment of a consultant to support the implementation of Universal Periodic Review recommendations. UNAMA has not clarified its mission objectives for the coming two years. Therefore the operating environment may affect the engagement process between UNAMA Human Rights Unit and JHRA.

¹⁰ The Evaluation team has been advised by UNDP that: *Integrated work plans for UNDP projects and UNFPA are currently under discussion through the work of the UN Results Group on Justice and Rule of Law co-chaired by UNDP CO and UNAMA. JHRA has been participating in these discussions on a regular basis.* These are useful first

A16. Overall, there have been signs of progress since the evaluation of JHRA 1 in 2012. However, while there has been a positive and at times pro-active approach to cooperation by the project, there is much more that could be done to make for greater effectiveness in order to add real value to the projects and programmes of partner agencies and projects, and to facilitate more effective mutual support between UNAMA and the project. The foundation for such cooperation would be best established at the planning stage.

A17. *It is recommended* that, in planning JHRA 3, consultations by UNDP with UN partners have an agenda which includes a more collaborative approach to programme building, with detailed attention to the contributions of other partners, as well as a focus on the way JHRA can facilitate the work of others. It will be difficult for the project to undertake this work without corporate support, and *it is also recommended* that UNDP's senior management and the Programme Units take up the issue of setting closer and more effective cooperation among UN agencies as a practical priority. "How to" guidelines are required! What has been put in place at HQ level to guide UN joint Programmes has not been adequate as a basis for such an initiative, or for changing staff incentives, and hence, staff behaviour. A start can be made on a project-by-project basis.

Partnerships with National Institutions and the Relevance of Project Programming to Institutional Priorities

A18. One of the tests of partnership in projects is the equal standing of partners in decision-making, and a major gap in the architecture of JHRA 1 was the absence of a representative governance structure involving national partners. That gap has been filled in JHRA 2 though the establishment of the Project Steering committee, to be co-chaired by the Minister of Justice and the Country Director, UNDP.¹¹

A19. In addition to the partnerships noted above (see A5), project partners have also included municipal governments in Kabul and Herat (and, potentially, in other provinces) on the street vendors initiative, civil society organizations (CSOs), university law faculties, and, indirectly, the Ministry of higher Education. Relations with the AGO, MOFA, AIHRC and AIBA have been cordial and, in the main, constructive. As in JHRA 1, the project has found it more difficult to make progress with the Supreme Court at the centre. At a formal level, relations with MOFA have been satisfactory, although there have been some practical problems in programming and operational matters. The partnerships with AIHRC and AIBA have been strong and have provided a solid basis for programming collaboration. Relations with municipal government have been positive. In terms of relations with CSOs, JHRA has been in regular communication with 54 organizations, 35 of which have participated in one or more of the training workshops

steps. It remains to be seen how effective such efforts will be in translating into practical cooperation by projects on the ground. As UNDP comments, in concluding its remarks, *this work* (n.b.: of joint planning across projects) *is currently in progress but indeed needs to be stepped up.*

¹¹ Project Governance is considered in detail in Chapter 3B, Efficiency, below.

organized.¹² However, in the view of the Evaluation Team, there has been a lack of follow-up after some successful short-term initiatives, hence limiting the prospect of achieving results. There are, however, plans to address this gap in 2015.

A20. The major partnership has been with the MOJ. Relations were good and the working partnership was effective until the passing of the late Minister in March 2014. Since then, matters have been very different, though some departmental-level work continues. The practical implications for programming will be discussed below. For now, in reflecting on the partnership between the project and MOJ, it might be suggested that one lesson to be learned is that it is critically important to build a broad range of relationships with senior and middle managers in the Ministry while staying with agreed channels for official communications and decision-making. While political and personal agendas have served to undermine relations among the project, the Ministry and the Rule of Law Unit in the UNDP Country Office, the project also suffered from failing to manage the risk of depending too heavily on its good rapport with the late Minister in addressing all major issues in the partnership and in programming.

A21. With the passing of the late Minister, the patterns and directions of leadership within the Ministry have changed, and there has been more space for the assertion of departmental and other priorities. Perhaps understandably, the project proved to be poorly prepared for the unexpected and rapid shifts in organizational dynamics which emerged.

A22. In terms of the relevance of JHRA programming to the fundamental needs of its partners, the picture varies. However, in considering this topic, it must be borne in mind that, particularly given the enormous set of needs to be met and the relative scarcity of resources, one project cannot, and should not, seek to fulfil everything that its partners might wish for. For the MOJ, the project is responding to a long list of needs, complementing support from other donors. In the case of AGO, while it is extremely appreciative of the assistance from JHRA for selective training at provincial level, and for the initiative to support the ERAW Units in the provincial AGO Offices, it also hopes that the project will be able to broaden the base of its cooperation to address some of the organization's core needs.¹³

A23. AIBA is receiving assistance in the development of a key initiative in the form of the establishment of the Legal Aid Grant Facility, which will serve to add significantly to its role as a core justice sector institution. AIHRC is an institution which receives substantial financial and policy-level support from a range of major international donors. For all this, the partnership with JHRA is offering something different: technical support to the organization at a strategic level.

¹² Source: Written advice from UNDP in response to perceived gap in the draft version of this report. The training workshops are discussed later in the report.

¹³ On the scope of support to the AGO, the Evaluation Team was advised that: *JHRA has been discussing the need to develop a Letter of Agreement (LOA) with the AGO since late 2013. However, due to inadequate funding, the LOA was deferred to 2015.*

The support is proving to be both effective and highly appreciated, and represents a valuable addition to efforts to strengthen organizational capacities.

Programme Logic and Project Focus

A24. As discussed above, the project is rated very highly in the Evaluation for its relevance to national objectives and to key factors in the strengthening of the justice system and access to justice. At the same time, one of the more problematic results of the effort through the Project Document to address the priorities of a broad range of national and international stakeholders is the formation of a very stretched and scattered project, where limited human and financial resources are dispersed across a broad range of activities.

A25. Many of these difficulties originate in the UNDP CPAP, which covers all elements of the justice and human rights thematic fields. As with the Project Document, it is well-written and analytically sound, but it provides little guidance in terms of the choices that must be made in programming, where the resources available represent a small fraction of what is required to fulfil the requirements of the agreed reform agenda. The CPAP Outcomes, which, in accordance with UNDP practice, are also those for the projects (JHRA and LOTFA) which fall within the Justice/Rule of Law sphere, are as follows:

- a) For 2010-2-14: *The Effectiveness of the Justice System is improved and Access to Justice is increased;*
- b) For 2015-2019: *Afghan Men and Women in Target Areas have increased Trust in State Justice and Citizen Security Institutions.*

While both outcomes provide a reasonable objective to aim for as a guide to the collectivity of donor efforts, if closely coordinated, neither provides an adequate focus for JHRA 2, or any other single project, although the second outcome statement does suggest a narrowing of the geographic focus of endeavours. In a highly centralized governance system, both outcomes require attention to both the full range of justice and human rights institutions at the centre, as well as to those in the provinces and districts, along with engagement with all facets of the processes underlying access to justice and the demand side of the relationship between citizens and justice institutions.

A26. As matters stand, while all activities pursued are relevant to the project results framework, what is lacking is a central logic to guide project decisions on setting priorities and the allocation of resources, as well as an approach to results where each output or component contributes to the achievement of a realizable outcome, or outcomes.¹⁴ The project is doing too many things of different kinds to produce a real impact. Based on current projections, there is no doubt that the project will *contribute* to the outcome results. What will be discussed below is the adequacy of

¹⁴ The project logic and results framework are discussed in more detail below.

current plans as a means of making a significant difference. It is understood that, with diminishing donor resources to respond to a massive set on unmet needs, and fewer projects than in earlier years, reducing the scope of project activities will be particularly challenging.

A27. The absence of a strong results framework and a results-based approach to project planning and operations management removes a form of discipline to guide decision-making. A consequence is that some interesting initiatives take place which lead nowhere. In such cases, there is no follow-up, and resources are expended without contributing to overall results. This is particularly problematic in the case of a list of training activities under all three programming components. While all have been planned and executed professionally, in many cases, they are of limited value, since they do not contribute to a more comprehensive and sustainable capacity development strategy.¹⁵

A28. The Project Document highlights a methodical effort to take into consideration lessons and recommendations deriving from the MTE and the End-of-Project Evaluation for Phase 1. On the basis of a review of project practice, it is apparent that, in many cases, the lessons and recommendations have been internalized. In some other case, the same problems remain. Both positive and negative examples will be discussed in later chapters.

A29. The project has improved to a considerable degree in its attention to the gender dimension as compared with JHRA 1. A more detailed assessment of gender equality in the project will be found in Section 3D, below.

A30. As with all capacity development projects in Afghanistan, JHRA 2, like its predecessor, faces some difficult issues in thinking through its approach to sustainability. This issue will be discussed in more detail below.

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

Project Governance

B1. The Project Steering Committee or PSC (which did not exist in JHRA 1) is described in the Project Document as the project's "highest-level decision-making body" and "the group responsible for making executive management decisions."¹⁶ The PSC is co-chaired by the Minister of Justice and the UNDP Country Director.¹⁷ In addition, membership of the Committee also includes representatives of the following institutions:

¹⁵ These issues are discussed under Capacity Development in Chapter 3C, below.

¹⁶ See: p.77.

¹⁷ In practice, the Country Director's responsibility has been delegated to The Senior Deputy Country Director, Programmes, responsible for Rule of Law Programmes.

- Ministry of Justice;
- Ministry of Interior;
- Ministry for Women’s Affairs;
- Supreme Court;
- Attorney General’s Office (not below rank of Deputy Attorney General);
- Afghanistan Independent Human Rights Commission;
- Ministry of Finance; and,
- Ministry of foreign Affairs.

In addition provision is made for inclusion of:

- 2 Nominated members of civil society; and,
- Donor representatives.

B2. Judging from attendance sheets for the PSC meetings which have been held, there appears to be no limitation on the number of representatives from any named institution who may attend. As meetings are held at the Ministry of Justice, the largest group of participants signing the attendance sheet are drawn from the ranks of its managers and professional staff. Presumably, voting on decisions of the Committee is restricted to one representative of each institution, though this is not stated. The Chief Technical Advisor and other members of project staff may attend and make presentations, although they are not, formally, members of the Committee.

B3. According to the Project Document, at least two meetings are to be held each year. However, to date, in the course of project implementation (January 2013-October 2014), only two meetings have been held: one in November, 2013, and a second in March 2014. In that all major project decisions are to be approved by the PSC, the project was at fault in failing to secure PSC endorsement for some critical developments during 2013, and for not allowing high-level discussions to take place before changes were made. A meeting should have been held early in 2013 to approve the Annual Work Plan (AWP), which was approved only after the fact in the November meeting of that year. A further meeting should also have been held to review and approve changes to the AWP under which adjustments were made as a result of funding shortfalls. The failure to hold these meetings may well have contributed to the problems which emerged into public view in May 2014, and which have resulted in a breakdown of relations between project management and the Ministry of Justice.¹⁸

B4. It is hoped that JHRA management and UNDP will ensure that two meetings are held in 2015. Given current issues between project management and the Ministry of Justice, and the need for UNDP and JHRA to absorb the findings and recommendations of the Management Review, as well as of the MTE, it may not be productive to seek to schedule a meeting in late 2014.

¹⁸ These observations parallel those made in the Management Review of JHRA 2.

B5. According to input to the Evaluation provided by project stakeholders and participants, PSC meetings are not as helpful as they might be. Donor representatives have complained at the lack of advance notice given and the failure to provide full documentation to support the agenda in time to enable members of the Committee to properly prepare. ***It is strongly recommended that*** the project re-set its priorities to give greater attention to planning and preparation of PSC sessions, as well as follow-up.

B6. It is also felt that there is a need for a more disciplined approach by the co-chairs to managing agenda items and the time devoted to them and to individual interventions. In addition, a concern has been expressed by donors that the proceedings should focus on major issues concerning the substance and direction of the project, results and major operational issues. It is felt strongly that meetings should not become bogged down in minor technical or administrative matters, or be used to explore broader issues of policy, which are of marginal relevance to the project, and which may be considered elsewhere.

B7. An important innovation, which should ensure that detailed matters concerning operations, technical concerns and partnership would be addressed and resolved elsewhere, would be the establishment of a Technical Cooperation Committee (TCC).

B8. The TCC and its functions are described in the Project Document (p.78). However, the Committee has not been established. It is understood that it was on the agenda of the former National Project Manager to initiate actions to form the Committee, but that the initiative was put on one side. In a meeting with the Evaluation Team, the Deputy Minister of the Ministry of Justice raised the issue of the formation of the Committee, as did donor representatives.

B9. The principal roles and responsibilities of the Committee are described as follows:

- Effective delivery of the programme with a special focus on resolving problems and bottlenecks between national and international agencies
- Ensuring relevant approvals are given for project activities
- Effective communication, coordination and co-operation between the various justice institutions.
- Identifying cross-institutional problems and solutions and recommending low/no cost mechanisms for problem solving and agreeing on the way forward.
- Ensuring necessary actions on audit findings and their follow up. Follow-up initiatives will then be reported to the Project Steering Committee.
- Taking relevant action based on issues referred to it by the Project Steering Committee.

Given some of the current difficulties experienced in the project and its relations with MOJ, and to ensure that practical resolutions to difficult partnership and operational matters are arrived at prior to PSC meetings, activating the Committee, even at this stage of the project, will be of particular value. It will also provide a mechanism whereby other partners may play a role where problems emerge between any two project partners. Although such interventions may occur away from the Committee, the scope of jurisdiction of the TCC provides legitimacy for partners

to take the initiative in this fashion on the basis of the “public interest” of all project stakeholders. An additional function of the Committee would be to prepare for PSC meetings and follow up on its discussions. Since the TCC’s formation is part of the approved Project Document, there need be no impediment for project Management, MOJ and UNDP to move ahead rapidly to establish it.

B10. TCC membership parallels that for the PSC, but at with representation at one step lower in the organizational hierarchy of partner institutions. Effectively, it is the “working-level committee” which supports the executive decision-making body. The CTA and project managers are also members, as are representatives of the Rule of Law Unit at UNDP. The JHRA National Coordinator at MOJ would also be a member. Meetings would be held at least quarterly.

B11. Some clarification is required on the arrangements for co-chairing the Committee, taking into account current practice on the PSC. Since it a *working level* group, concerned with practical matters, it is suggested that it might be chaired by the chief decision-maker for the project, under the direction of the PSC: namely, the CTA, and a representative of the major Afghan partner, the MOJ: either the Deputy Minister, or, on his behalf, the DG Policy and Planning, who has a cross-departmental mandate.

B12. ***It is recommended that***, drawing on the basics set out in the Project Document, the CTA and project management team, in consultation with the Rule of Law Unit, develop more detailed and updated rules and procedures for both the PSC and TCC for review and approval at the next PSC meeting. Given the gaps in the description of the TORs, rules and procedures for the PSC and TCC in the Project Document for JHRA 2, ***It is also recommended that***, for JHRA 3, careful attention be given to the inclusion of comprehensive and complete details on both Committees and other aspects pf project governance in the Project Document.

Donor Relations and Reporting

B13. On the basis of interviews with donors, it may be said that they have a broadly positive view of the project, though with some reservations. One of these, as with JHRA 1, relates to project communications. It must be noted at the outset of this discussion that this is one area of project work which has been seriously affected by financial shortfalls and staffing gaps.

B14. Donors to the project credit JHRA management for its openness and frankness in responding to enquiries and questions that are raised, though, it is also noted, responses are not always quick. They are of the view that there is a need for a monthly meeting between donor representatives and project managers to discuss current developments and to enable them to stay up-to-date on developments. As it stands, there is a concern that much, essential information is lost, which the representatives feel that they need in order to understand operations, to report effectively to HQ, and to know when to provide support to the project.

B15. For its part, the project management team is concerned that there may not be enough progress to report in a particular month. In the view of the Evaluators, there will always be

plenty to present and discuss, possibly with a particular focus on one element of programming in each meeting, with relevant members of the project team invited to discuss developments. This will give the donors a better grasp of opportunities, as well as challenges, facing the project, and enable them to gain a better appreciation of how things work and why. On the other hand, particularly given the difficulty the project has experienced in maintaining timely reporting, it is recognized that to hold such meetings monthly might be unrealistic. Instead, ***it is recommended that*** donor group meetings are held bi-monthly, or at least four times per year, with a schedule to be agreed in advance between the donor group and the project management team.

B16. It is suggested that the CTA meets with a donor representative or representatives to discuss the format of the meetings, as well as the venue. Meetings should be chaired by a member of the donor group, and attended by a programme officer from the Rule of Law Unit, as well as project component managers, and others at the discretion of the CTA, and/or at the request of donor representatives. The Chair of the donor group and the CTA would solicit suggestions for the agenda, which should be agreed in advance. Meetings should be no longer than 90 minutes in duration, unless otherwise requested in advance.

B17. ***It is also recommended that*** the CTA work with her team to develop a simple template for preparing monthly reports (not more than 2-3 pages) on activities and progress to be completed by all managers. These reports can be used for internal communications and sharing of information, while also serving, if required as documentation for donor meetings and discussions with the ROL Unit and senior management.

B18. As for JHRA 1, though to a lesser degree, donor representatives have complained about the lateness of project reports, as well as their character and focus. The general view, which is endorsed by the Evaluators, is that quarterly reports are unnecessarily long and detailed, and that reports which are much shorter, and which focus on outputs and what has been done in the quarter, would be both acceptable and desirable. The major problem to address is the lateness of the reports, and this should be easier to resolve with a slimmed-down reporting format.

There is an apparent conflict here between donor expectations and the rules on project reporting of UNDP and the Country Office. Current reporting formats, particularly for quarterly reports, are not reader-friendly, while also imposing an unnecessary burden on project management. Hence, ***it is strongly recommended that***, with the support of senior management, the Rule of Law Unit take the lead in seeking to resolve this matter to the satisfaction of both donors and UNDP, while providing the basis for a less demanding format for project reporting.

B19. In any case, ***it is further recommended that***, once a resolution to the apparent impasse is arrived at, the CTA and Rule of Law Unit develops a template and guidelines for the preparation of quarterly reports, with the objective of reducing the burden on the project while satisfying the needs of donors. One benefit of the production of the simple monthly reports, discussed above,

is that there will now be a documentary record to use as a reference point in compiling the quarterly documents.

B20. For Annual Reports, donors are concerned that the focus must be on results and reporting on progress against outcomes and the principal outputs during the year just completed, reviewed against agreed indicators. An explanation should also be provided of how resources have been deployed in pursuit of results, with a justification of all activity-sets against results sought. ***It is recommended that*** Annual Reports focus on progress as measured against indicators in achieving output and outcome results.

Financial Reporting and Financial Management

B21. A more difficult problem for the project to resolve concerns its financial reporting and the financial information provided to donors and other stakeholders. This is a major challenge for both the project and UNDP. It was a problem throughout JHRA 1 and is yet to be resolved adequately. Financial reporting provided by Country Office, based on inputs from the Project, is often at odds with “final reports” coming from UNDP New York. At times, figures, which are initially presented as “final”, are later changed. Donors are asked to provide the next tranche of funding to the project, but, according to their records, it appears that there are substantial unspent funds on hand in the project’s account. Hence, donors are understandably sceptical where the project’s financial reporting is concerned.

B22. This is not only a problem for external stakeholders. The CTA, project component managers and the Rule of Law Unit are unable to obtain accurate, up-to-date figures on a month-to-month basis of the financial status of particular budget lines: which funds have been committed, which have been spent, and which funds are, as yet, uncommitted. Project managers cannot do their jobs properly without sound financial information. The current situation is unacceptable, and it should also be a major embarrassment to UNDP that its largest country programme cannot provide accurate and timely financial information on its projects to its funding partners. ***It is recommended strongly*** that UNDP Country Office and UNDP New York, as well as the project office, treat it as a matter of urgency to address the deficiencies in their financial management, information and reporting systems and staffing.

The Project Budget and Resource Mobilization

B23. It is a common feature of UNDP projects, not only in Afghanistan, that project budgets, as described in project documents, are not fully subscribed. Since the “Pro Doc” is intended to serve as the basic management tool for the project, this gives rise to problems. The set of objectives and results described, along with the staffing plan, presuppose a full budget. In practice, the project is managed on the basis of the Annual Work Plan. This is less than ideal, since it reinforces a short-term perspective on activities at the expense of a focus on longer-term results. Given continuing uncertainties about funding every year, it is not surprising that this occurs.

B24. The following is an extract from the End-of Project Evaluation for JHRA 1:

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. 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.

B25. While there is a bare-bones management strategy for JHRA 2, and ad hoc adjustments have been made (by the project, and sometimes by decision of Country Office) to staffing strategy to cope with reduced resources, the same disparity exists between resources planned for and funds received. The Project Document indicates that the project budget is \$34,402,039. This figure continues to be quoted in all project reports, including the most recent quarterly report (Quarter 1, 2014). Actual resources mobilized for the project amount to approximately \$14 million (based on Annex 3, Financial Table, in JHRA, Quarter 1 2014 Progress Report).

B26. There are a number of factors underlying the shortage of funds for JHRA 2. Planning for the project in 2012 took place at a difficult time, when the international community was beginning “the drawdown” and a reduction in both numbers of expatriate staff, as well as in the number and scope of programmes funded, was taking place. Donor funding, so plentiful a few years earlier, was now reduced. In addition, there had been uncertainties about whether the government would meet the expectations of the international community, as formalized the following year in the Tokyo Mutual Accountability Framework (TMAF). These uncertainties continued through 2013 and 2014, until the formation of a post-Karzai government in October, and influenced donor willingness to commit further funds for development activities in Afghanistan.

B27. There was confusion about the effort by the UNDP Country Director to launch a Multi-Donor Trust Fund (MDTF) for Rule of Law during 2013.¹⁹ While the effort was unsuccessful, and the plan for the Fund abandoned, it also deflected attention from JHRA 2, and this made it difficult for the project to attract additional support during the first year of implementation. This left the project dependent on a small group of core donors.

B28. Further, as a consequence of donor government policies and priorities for development cooperation, most individual donors have earmarked their assistance for support for particular

¹⁹ At this time, UNDP’s largest project, the massive *Law and Order Trust Fund, LOTFA Phase VI* (2011-2014), with a budget of \$1,815,010,485, to cover police remuneration, infrastructure and equipment, along with supporting activities, had already been funded. Another rule of law project, the *Afghan Integrity Initiative, AFII*, intended to support anti-corruption efforts, had been unable to gain support from donors. In launching the MDTF, UNDP announced to donors that all new Rule of Law funds should be channelled through the Fund. This had a significant impact on JHRA, since it led to confusion among the key donor agencies which had an interest in supporting the project.

project components or sub-components, and/or for spending in particular regions of the country. This has made it difficult for JHRA to adapt and adjust when it finds itself short of funds to pay for some sets of activities, as well as some core costs. These problems were exacerbated in November 2013, when UNDP senior management “*reprioritized its internal TRAC funding for programme activities, which left a gap in resources.*”²⁰ This resulted in a reduction in the budgets of all its projects, to contribute to meeting the costs of Country Office operations as UNDP faced a global funding crunch.

B29. The project lost \$500,000 in the exercise, while some other projects lost more. The size of the reduction, apparently, depended on the degree of success of each project in achieving expected levels of delivery. The decision was never justified or explained to donors and left the project in a difficult position. Because of restrictions on the way the funds provided by several of its donors might be used, the project was now unable to cover some of its commitments. It was now obliged to approach the donor group again to request that they provide additional contributions to cover the funding gap.

B30. As noted above, a further problem resulted from restrictions associated with the provision of donor funds. Component 4 of the budget is identified as Management Costs. However, several of the project’s financial supporters took the view that, since it appeared to be the case that management costs were also built into each of the components, and were already seen as high, they were unwilling to contribute to this additional component, designated to cover management expenses. This left the project scrambling to find the necessary funds to cover core costs.

B31. Core management and personnel costs are substantial, but not excessive, given the character of the project (including those costs associated with contracted services, and also taking in security, insurance and accommodation rental and maintenance expenses, as well as payments {\$75,000 to \$100,000 per year} to Country Office for services provided). Altogether, such costs account for \$1 million of the \$7million budget (with \$6 million committed) for 2014 under the Annual Work Plan.

B32. In order to bring enlightenment, transparency and understanding to the topic, and to promote a better-informed discussion of the budget, ***it is recommended that*** the CTA and the project management team prepare a memorandum providing a detailed prose description and line-by-line explanation of the budget as presented in the Annual Work Plan for 2015, designed to accompany it. ***It is further recommended*** to UNDP that the Project Document for JHRA 3 includes a chapter which provides a full explanation and justification of the proposed budget.

B33. The core problem remains the gap between the ambitions of JHRA and UNDP and the realities of a constrained budget. The gap between funds projected and received was a major problem in the case of JHRA 1, and the problem persists with JHRA 2. A root cause lies in the absence of an effective resource mobilization strategy on the part of UNDP. The Evaluators were

²⁰ Note of clarification from UNDP, November 29, 2014.

advised that there is a UNDP Donor Advisory Group, chaired by the Special Representative of the Secretary General (SRSG). However, it is not clear what the organization does. Apart from the failed effort, led by the former Country Director to raise funds for the MDTF, there has been no sign of a unified approach to resource mobilization, and, except in the case of very large projects, senior managers have not been visible to donors in discussions on securing funding.²¹

B34. Instead, as matters stand, individual projects (not only JHRA) are left to market themselves to donors, with little support from Country Office. This results in a state of affairs where projects are competing with one another for limited funds, and creates the impression that UNDP has a limited interest in its own projects. This also amounts to a reputational risk for the organization in the eyes of donors, as well as national stakeholders.²²

B35. This is one dimension of a broader issue with UNDP Afghanistan, where there is an unusual and unhealthy distance between projects and the Country Office (CO), and where the quality and reliability of services provided to projects is less-than-optimal. In the course of the Evaluation, this was remarked on by managers and staff members of other projects, as well as by some well-placed staff members, and even senior managers, at Country office.²³ This is a major problem, and the need for a concerted and unified resource mobilization strategy is one part of its resolution.

B36. In the view of the Evaluators, it is neither reasonable, nor realistic, for projects to be left alone to secure the funding they need. It cannot be claimed that corporate support would resolve all resource shortages, but it would increase the probability that projects would be fully funded. Development of a coherent resource management strategy would also oblige senior management to set priorities and ensure that it is not supporting more projects than “the market can bear”. *It is recommended that*, as a priority, UNDP senior management develops a coherent resource mobilization strategy, as a basis for supporting the efforts of projects to put themselves on a sound financial footing, and that project management teams are no longer expected “to go it alone.”

B37. It is understood that senior management has asked the Rule of Law Unit to develop new projects, and plans are underway to develop one project on land rights, and a second on gender equality (despite the fact that the Gender Equality Project (GEP) is already underway) . While

²¹ Donors remarked to the Evaluators on the lack of engagement of senior management in discussions on raising funds, and on the absence of a fund-raising strategy. As one representative explained to the Evaluators: “We have discussed with other donors the problems of the project being understaffed - and yet I’ve never seen a fund-raising strategy by UNDP.”

²² Within projects, it also reinforces a sense of uncertainty among staff about whether there will be funds in place to cover salary costs for the coming year. This contributes to lowering morale. This is the state of affairs to be found in JHRA at the present time.

²³ International staff members of JHRA and other projects, as well as in Country Office, who have substantial experience working in other countries with the organization, commented to the Evaluators that this situation was highly unusual and very different from the organizational culture found elsewhere.

such projects may be consistent with the directions set out in the Country Programme Assistance Plan (CPAP), at a time of diminishing donor funds, it is not responsible behaviour on the part of UNDP management to seek to develop new projects in the rule of law/human rights field at a time when existing projects are struggling to secure the budget required to support ongoing operations.

B38. Presumably, the proper role of the Rule of Law Programme Unit should be to advise senior management of the difficulties confronted by existing projects in securing funds, and of the inadvisability of developing new projects under the circumstances. However, it may be unrealistic to expect the Unit to perform this role at present, given its limited capacities and a lack of clarity concerning its role (see also B75, below). ***It is recommended that*** UNDP Afghanistan reviews its procedures for determining the feasibility and advisability of developing new projects, and that their potential impact on the financial prospects of existing projects in the same sector be a major factor to be considered.

B39. According to the views of the broad spectrum of those interviewed there is clearly a place for a major UNDP project in rule of law and human rights. If so, it deserves the full support of UNDP senior management and Country Office (CO) in securing the funding it requires to fulfil its tasks and secure the results which it is committed to achieve. Because of funding gaps, the project operates without a number of staff positions filled. Existing staff live with the insecurity of not knowing whether their jobs are secure for the coming twelve months.

Project Management and Organizational Concerns

B40. In the context of UNDP programming in Afghanistan, and in terms of the size of project budgets, JHRA 2 is a medium-sized project. However, despite this, it is probably one of the more complicated of UNDP's portfolio of initiatives, involving a long list of activities and types of intervention, with a variety of partners in multiple locations. As such, the project is both transaction-heavy and labour-intensive. Since the project is also under-staffed and under-budgeted, the leadership of the project has faced many challenges in "managing complexity." Perhaps not surprisingly, not all have been negotiated successfully.

B41. The management process and working relations among project managers have not been as effective and efficient as they should have been. Frustrations have been expressed by all members of the project management team, including the CTA, at this state of affairs. The project has also lacked adequate systems and consistent procedures, though, to some degree, this problem originates with Country Office with its own often convoluted procedures and layers of approvals, and frequent changes in requirements. There are also important gaps in management information.

B42. Many of the management problems which have emerged derive, at least in part, from a Project Document, which, while well-written, is rather weak as a manual and guide to support the management of project operations and programming. In part, these difficulties originate in a

decision, which came late in the project formulation process, for the project to be implemented by Direct Implementation Modality (DIM), rather than by National Implementation Modality (NIM), which would have given direct authority for project management and budget control to the Ministry of Justice.²⁴ Adjustments to the document to take this major shift in approach into account were inconsistent and incomplete. Among the most notable deficiencies in the document are contradictory and overlapping Terms of Reference for some key posts, causing confusion and uncertainty in terms of roles and responsibilities, along with a more general lack of clarity on lines of reporting and accountability. There is also no information on how the management team will work together, although this is a general deficiency of UNDP Project Documents.

B43. Further, in following the outline set out in the Project Document, JHRA 2 has become a scattered project, as noted above, trying to do too many things with too little money. This has made it an even greater challenge to hold a multi-component and multi-partner project together.

The JHRA “Management Crisis” of 2014 and its Context

B44. As is now well-known, a slow-burning organizational problem was transformed into a serious crisis for the project in May 2014.²⁵ One of the results of the failure to properly amend Terms of Reference for project staff was a duplication of functions in the job descriptions for the CTA and the National Project Manager (NPM). Where the project would have operated under NIM, in principle, the NPM would have had a directing role concerning project implementation, as well as leading on management of operations, with the CTA taking the lead on the professional and technical approach and content of the project. With the switch to a DIM modality, the TORs were adjusted to indicate that the executive authority for the project was given, unambiguously, to the CTA, while it was also indicated that the NPM would report to the CTA. However, other features of the TORs for each position were largely unchanged. This was a recipe for conflict and resentment and gave rise to considerable confusion and an ongoing struggle for primacy within the project for the two.

²⁴ The decision to move from a NIM to a DIM approach resulted from feasibility assessments by the World Bank, and UNDP, which concluded that weaknesses in MOJ management, particularly in finance, human resources and procurement, would make it difficult to justify a transfer of overall control for project funds and decisions to the Ministry. The World Bank project with the MOJ is supported by a specially-established project unit and a Bank-appointed senior financial manager.

²⁵ The crisis in the management of JHRA and its difficult current relations with MOJ form the basis for a Confidential Management Review, undertaken on behalf of senior management at UNDP Afghanistan by a senior manager from another CO in Asia. The Review took place in parallel with the MTE and there was the opportunity for the Team Leader for the MTE and the author of the Management Review to meet and discuss common concerns, and to agree on approaches to resolution of major problems. The Review was written with the discussions between the author and the team Leader for the MTE in mind, and an equivalent effort has been made in the MTE to be consistent with the Review.

On occasion, where appropriate, this Report quotes the Review’s draft report. The Review includes a detailed Action Plan. This Report does not attempt to duplicate items included in the Plan, but it does draw attention to what the Evaluators regard as major priorities. In particular, emphasis is given here to the importance of establishing the position of Operations Manager, a point not directly addressed in the Management Review, but consistent with support to all other key recommendations.

B45. Staff report on receiving contradictory instructions from the CTA and the NPM, and - despite what the CTA perceived to be her best efforts - the two were never able to find a way to work effectively together. Yet for all this, project work went ahead, more or less as normal. In the background, the CTA's position was constantly undermined by claims by the NPM, in meetings with staff and government partners, that he was the project's senior representative. The NPM did not accept the situation, feeling, perhaps understandably, that he had been pushed aside by UNDP from his rightful position, and also took the view that the project should be managed by an Afghan national, and that it had been inappropriate to change the modality of the project. He received support for his position from some project staff, as well as from others in Country Office and some in the Ministry of justice. Other national partners were not directly affected by this state of affairs.

B46. Staff members struggled to cope with what became a very tense situation. Efforts by senior management to resolve the situation by giving responsibility for operations management to the NPM were unsuccessful. The NPM took the view that he was being relegated to a purely administrative role. In the early months of 2013, he prepared a letter to the Country Director, complaining that his position had become marginalized, pointing to the responsibilities set out in the TORs for the position, while noting that he had been prevented from exercising them, and calling for justice and an adjustment to project organizational charts and terms of reference. A meeting with the Country Director merely reconfirmed the status quo, and his frustration continued as before.

B47. These unresolved tensions in UNDP Afghanistan around the NPM position in projects have their origins in the strategy adopted by a former Country Director, Manoj Basnyat, who was removed from his position in 2012 while some questionable financial practices were investigated. Mr. Basnyat came into his position at a time of very large international assistance budgets and adopted what might be described as an autocratic and freewheeling approach to carrying out his responsibilities. Many of the current difficulties in the relations between Country Office (CO) and projects and between national and international staff in projects, as well as between projects and government partners, have their origins in the manoeuvres of the former Country Director. Apparently, these problems were exacerbated by the absence of decisive steps on the part of UNDP leadership, following Mr. Basnyat's removal, to take remedial action in addressing the damage that he had done and renewing the organizational culture.

B48. For his own reasons, the former CD took the view that all projects should operate under NIM modality, that all should have NPMs, and that NPMs should have executive authority. This latter position was later rejected by UNDP New York, hence the hasty reversal of earlier plans concerning the respective positions of the CTA and NPM for JHRA 2. The CD was also responsible for extending financial support to a very large number of National Technical Advisor (NTA) positions in government institutions through projects: well-paid positions for Afghan

nationals, where projects had very little authority for monitoring their performance.²⁶ He also sought to support a strengthening of control by Country Office over projects, though without having the authority in UNDP rules and regulations to support this initiative. Nevertheless, he encouraged a more pro-active approach by CO Programme Units to intervention in project management decisions, in place of the kind of cooperative partnership and guidance role that would be expected. In addition, he gave encouragement to national staff that they should expect to play stronger roles in projects and in CO.

B49. While the long-term objective for UNDP is to strengthen the national character of its operations, a transition of this kind has to follow on from steadily improving practical capacity and performance, and a carefully-phased handover of responsibilities on an iterative and case-by-case basis. However, irresponsibly, Mr. Basnyat encouraged the belief that the transition could and should be rapid. A perceived failure by UNDP to follow through on these initiatives after his abrupt departure led to a growing sense of disappointment and resentment on the part of some staff, and increasing tensions between national and international staff.

B50. This growing tension also extended, to a degree, to relations between projects and government institutions, since the former CD had built up close personal relations with the leadership of a number of ministries and ensured that, in addition to provision for funding for NTA positions, they received generous quantities of equipment, vehicles and other tangible, immediate benefits through UNDP projects. The need on the part of UNDP to take a more parsimonious approach to project budgets at a time of both reduced funding and tighter auditing of project accounts has also caused some frustration, and, at times, this is directed at international staff, and may take on a “nationalist” dimension.

B51. While it does not explain the particular features of the current situation, in the view of the Evaluators, based on both documentary evidence and interviews with a variety of sources in JHRA, other projects, the CO, the Ministry of Justice and elsewhere in government, the legacy of Mr. Basnyat’s actions form an important part of the background to the recent difficulties experienced by JHRA.

Strengthening the Organization and Management of the Project

B52. One of the key factors in the escalation of the tensions in the management of the project was the lack of decisive action at an early stage by Country Office and senior management, including the Country Director (CD) in 2013-2014. While the CD reiterated on several occasions that executive authority rested with the CTA, senior management did not take firm action in attempting to resolve a dispute that was having damaging effects on the project. As noted above, Country Office and senior management had determined that the best way forward, ensuring that the incumbent of the position would have a substantive role in the project, would be for the NPM to take on the Operations Manager role. Hence, he was given full responsibility for project

²⁶ The NTA situation will be discussed in more detail in Section C, Effectiveness, below.

operations. Yet, while he was unwilling to report to the CTA and to maintain open communications with her, she remained accountable to UNDP and project donors for all aspects of the project, including team-building and maintaining staff morale, as well as project operations.

B53. While much of the responsibility for building an effective management team rested with the CTA, it was not within her power to address the needs and concerns of the NPM. Essentially, in a situation where the project had two leaders, what had emerged took the form of a “zero-sum game”, where there could only be a winner and a loser, and where staff loyalties were divided. The distance of CO from the project and its operations also deprived it of the detailed information it would need to fully understand the problem.²⁷ Further, in adopting this ad hoc solution to the management crisis, senior management and the CO did not give sufficient thought to the concerns of the international and national staff holding positions as component managers; they were not consulted.

B54. As emphasized in the Confidential Management Review, in resolving the issue of the project’s relations with the MOJ, the CO must take, and be seen “to take, a decisive position and communicate this position to the project team, donor partners and government partners.” Again, as noted in the Review, until now there has been a sense, on the part of both project team members and the MOJ, that the position of CO has been unclear or uncertain. What is required is “one corporate line with regard to the issues faced, immediate actions including the setting up of interim arrangements for implementing the project, a focus of attention on resource mobilization and developing a re-design/re-engagement process with stakeholders.”²⁸

B55. As will be discussed in Section C, one of the difficulties under which the project has laboured is slow delivery. In a project which is transaction-heavy, one of the causes of this “delivery gap” is the shortage of staff, with some 20 per cent of project positions unfilled. This has resulted in staffing gaps on both the programme and operations sides. It is understood that, in part, positions have not been filled as a consequence of the limited success of resource mobilization efforts, with a shortfall of \$20 million out of the \$34 million budgeted to complete the plan set out in the Project Document.

B56. UNDP rules and regulations make it unrealistic to think of completely rewriting the Project Document. However, ***it is recommended that*** the Annual Work Plan for 2015 be based on a realistic balance between estimated resources available and staffing required in delivering a programme and achieving results which are feasible.²⁹

B57. In Section C, *Effectiveness* and Section D, *Broader Issues*, proposals will be put forward for a re-focusing of the project’s programming activities to address issues of managing for

²⁷ As noted above, the distance between projects and the CO is an aspect of the organizational culture of UNDP Afghanistan, and not peculiar to relations with JHRA.

²⁸ Management Review, Confidential Draft Report, September 25, 2014, p. 11.

²⁹ This proposal is also shared with the Management Review.

results, impact and partnership. For the purposes of this section, the emphasis will be on what needs to be done to strengthen management in the short term, as well as beyond. For both management and programming, the approach adopted is to do what is necessary to strengthen performance for 2015 without disrupting ongoing work. Hence, 2015 is viewed as a transition year for the project, with JHRA 3, targeted to begin in 2016 (with planning to take place in 2015), seen as the focus for transformation.

B58. A major gap in the project has been the decision by senior management not to support the filling of the position of **Operations Manager**: a key provision of the staffing plan for JHRA 2 as set out in the Project Document. It is understood that the decision to turn down repeated requests by the CTA to enable the project to move ahead with recruitment was based on two concerns: (i) the shortage of committed funds; and (ii) the later decision to assign the NPM the responsibilities associated with the Operations Manager (OM) position (see discussion above). While the decision not to act on the establishment of the OM position was understandable, in retrospect, it was an error, and the costs to the project of this decision were considerable.

B59. In interviews for the Evaluation, all JHRA managers, along with a number of senior managers from other UNDP projects, familiar with JHRA, pointed to the absence of the OM as a major factor in the organizational and management difficulties the project has faced. Neither the NPM, nor the CTA, had the detailed knowledge required to fill the gap. Further, the CTA lacked the time to give operations and relations with the operations team in Country Office the attention required. At present, one of the component managers covers the vacant OM position. The arrangement is satisfactory in the sense that the manager has the respect and support of staff. However, as he would admit, he also lacks the operational background required. Hence, the current assignment of OM responsibilities must be regarded as a stop-gap measure only.

B60. ***It is recommended strongly that*** an experienced international Operations Manager be recruited on an 11-12 month extendable contract, beginning as early as possible in 2015 (recognizing that it will take some time between now and then to complete recruitment). It will be advisable for JHRA to seek the advice of a well-established Operations Manager from another UNDP Afghanistan project in preparing the TORs for the position, as well as in recruitment. In the opinion of the Evaluators, as well as of JHRA managers, and experienced project managers/CTAs interviewed, this position is a priority, regardless of the project's financial circumstances.

B61. The Operations Manager should have substantial experience in designing and supervising operations in UNDP projects and those supported by other donor agencies. He or She should be thoroughly familiar with UNDP rules, regulations and procedures, and would have the task of supporting the CTA (to whom the individual would report), the Rule of Law Unit and senior management in restructuring the project's operational systems and procedures and to recommend necessary adjustments to the terms of reference for members of operational staff. The remit of the consultant would include putting in place systems and a set of standard operating procedures

(SOPs) which serve the needs of the project and its programmes, as well as advising on management processes. In doing this, the OM would consult closely with managers and staff, and with Country Office. He or She will also meet with Operations Managers of other UNDP projects to review “lessons learned” and understand what works and why, particularly in working effectively and efficiently with Country Office.

B62. One particular aspect of the job will be to review issues in financial management, the provision of financial management and reporting, and devising solutions to address weaknesses and limitations in current arrangements.

B63. Whatever questions may have been raised about management, no-one has questioned the strong contribution of the CTA in leading on professional and technical matters and in advocacy on behalf of project objectives. At the same time, among the management problems raised in interviews with the Evaluators by members of the project team and “friendly observers” has been the overly-heavy burden carried by *the CTA*, as well as some frustration on the part of component managers and others at what is perceived to be an overly-centralized approach to management by her.

B64. From the CTA’s point of view, there is an entirely understandable concern to make sure that problems are identified and addressed rapidly, and that essential matters are dealt with on schedule, while appropriate professional standards are maintained. Ultimately, it is the CTA, and not the component managers, who will be held accountable for project performance and mistakes and errors in procedures.³⁰ The positions of both the CTA and her managers are easy to understand. The CTA arrived in the latter stages of JHRA 1, at a time when the project was a managerial nightmare. She saw what needed to be done and did an admirable job in pulling everything together, exerting a very necessary degree of control over all aspects of an unwieldy project. Now, circumstances may be a little different.

B65. It is essential, in the view of the Evaluators - and *it is recommended strongly - that* senior management confirms that the CTA will continue to carry the executive responsibility for managing the project, subject to the overall direction of the PSC. For JHRA 3 and other future projects, in order to avoid ambiguity in terminology, *it is recommended that* UNDP use the title “Project Manager/Chief Technical Advisor.” This has already been done with some current projects.

B66. However, it must also be recognized that there is a need for the CTA to delegate more responsibilities to the Component Managers. The project has a much stronger team than was the case for JHRA 1. In order *to strengthen the management process* and to build the team dimension of the project, it will be advisable for the CTA to provide more space for other

³⁰ It is important for all project management and staff to bear this in mind, particularly in view of deficiencies in the quality control over decisions on resource allocation and contracts in JHRA 1, as noted in the End-of-Project Evaluation, and the far more serious problems in LOTFA.

members of the management team to share the overall burden of management, providing more space for delegated decision-making, and *it is recommended that* she do so. At the same time, in order to maintain quality assurance, it will be necessary to strengthen processes for both management collaboration and internal quality control. The Operations Manager will provide support to the CTA, as required, in developing and implementing new management processes. As one aspect of this, there will take place a review of the TORs of all management staff to ensure the appropriateness of statements of accountability (what tasks the manager is responsible for completing and the results to be achieved), as well lines of reporting.

B67. *It is recommended that*, accompanying the AWP, each manager reporting to her works with the CTA on a set of priorities to be addressed and targets to be accomplished in the coming year. This process could be reproduced by each component manager for other members of professional staff.

B68. In order to make this change in the management process work well, it is suggested that opportunities are created for component managers and others, along with the Operations Manager, to discuss plans for project activities with the CTA in advance, to take her feedback into account and report back on progress. To this end, *it is recommended that* the CTA should work with component managers and other senior managers to revisit and re-institute the regular **Management Meeting**. These meetings should be held every two weeks, or at least monthly, depending on the demands on the time and travel plans of project managers. Responsibility for participation in the meeting must be added to the TORs for all management positions, and thus become a priority for all members.

B69. It is clear that the sharing of ideas, experience and plans, and discussion of common concerns among team members, has not been accorded the priority that team-building and a collegial management culture requires. This must change. Meetings should be conducted in business-like fashion and should follow an agreed agenda, and managers should have the opportunity to propose items for inclusion in advance. Management meetings should be restricted in duration to 60 to 90 minutes in length, and individual presentations should be limited to a maximum of 10 minutes, and interventions to 5 minutes. All participants would be expected to commit themselves to adopting a focused and disciplined approach to discussion, and to sticking to the agenda.

B70. The CTA will work with the Operations Manager, in consultation with the Director of Human Resources and senior management at UNDP, and in a transparent way with management and staff, in reviewing the TORs for all managers and staff. Care should be taken in only making those changes and adjustments which are absolutely necessary. Otherwise, major changes can wait until the preparation of the Project Document for JHRA 3.

B71. The introduction of these measures should serve to reduce the burden on the CTA, while further empowering the project's component managers. This will permit the CTA to concentrate

on project redesign, re-engagement with MOJ and strengthening institutional partnerships, resource mobilization, and ensuring that the project maintains its focus on outcomes and achievement of results and “the big picture”. There has been some concern expressed by donors that attention to micro-level issues by project management may have been at the expense of attention to higher-level objectives.

B72. One other issue requiring attention concerns the position of the *National Coordinator* (or, in full, the *National Project Steering Coordinator*), an NTA position, funded by the project, but located in MOJ. The position does not appear in the organization chart included in the Project Document, since it reports directly to the Minister of Justice. It was established in JHRA 1 and continued into the current project, and is intended to coordinate all project activities with the Ministry, and provide facilitation and communications on all working relationships and activities with the Ministry of Justice. Initially, the incumbent filled this role, but, later, also took on other duties within MOJ, where he worked closely with the late Minister.

The breakdown of cooperation between the National Coordinator and the project was followed by a reduction in the physical space made available to the project in the main MOJ building and the growing difficulties it experienced in communicating with the Ministry. For whatever reason, the National Coordinator felt that he had been marginalized by the project, sensing that he was no longer being sought after by JHRA management as the sole channel for communication between the project and the Ministry. He then sought to use his influence with senior management in the Ministry to make life difficult for project managers. All of this preceded the sending of the afore-mentioned letter from the Acting Minister to the UNDP Country Director.

B73. Under current circumstances, it is recommended that efforts be made to reintegrate the National Coordinator with project management, with the support of the Rule of Law Unit, clarifying with him and the Ministry’s senior management his roles and responsibilities, and including him in project management meetings and planning. His position will also be re-evaluated in the context of a broader review of the NTA positions supported by the project (see Section D, below).

B74. The Evaluators agree with the Management Review on the value of amending the project’s organization chart, though making provision for the position of the Operations Manager, reporting to the CTA, and with participation in the regular project management meetings, as well as in the Technical Coordination Meetings. The Operations Manager would also have a role in supporting the CTA in preparations for PSC meetings.

B75. Beyond the project and its organization and management, it is also important that urgent attention is given to addressing the position of the Rule of Law Programme Unit of Country Office, since establishing more positive working relations between the Unit and JHRA will be a critical factor in ensuring the future effectiveness and efficiency of the project. It is acknowledged that, currently, the ROL Unit is understaffed, that its roles and responsibilities are

not clear, and that relations between it and JHRA and other projects are far from ideal. Hence, the Evaluators are also in agreement with the Management Review that, in conjunction with the re-design of the project structure, UNDP senior management and Country Office should undertake a review of the roles and responsibilities, and the necessary capacities, of *the Rule of Law Programme Unit*, as well as of its relationship with the management team at JHRA and other projects in the sector, and with Afghan partner institutions. It is understood that the Country Director has already initiated a broader process to review the current organization of Country Office, including the Programme Units.

Project Facilities

B76. With the evacuation for security reasons of the offices on Shash Darak, formerly occupied by UNDP Country Office, and its relocation to UNAMA's main campus, where it took over the building formerly housing JHRA, the project lost its own offices. Having been evicted from its premises, the project then began a highly-disruptive process of searching for new facilities, with two temporary stops along the way before it relocated to its current location. It must be stated clearly that the offices occupied by the project are unsuitable for a UNDP Project. Offices are small and crowded, and conditions are unhealthy and significantly below UN standards, with 4 or 5 colleagues sharing a room. Senior management explained to the Evaluators that, while every effort had been made to secure appropriate facilities, this was the best that could be provided. If staff morale is low, one reason may well be the poor physical environment in which they work. *It is recommended strongly that* Senior Management and Country Office make fresh efforts to secure improved facilities for JHRA 3.

3C Effectiveness: Delivery, Results and Capacity Development

The Report will first review progress and results achieved under each of the three programming outputs. Later, attention will be given to a summary of broader issues.

Output 1: High-Level Coordination Mechanisms for developing policy and legislation in accordance with international and national standards are established and functional in State Justice Institutions

C1. Output 1.1 Increase capacity of Legislation Committee to enable sector-wide coordination and strengthen policy-making:

After some initial explorations, the project has been inactive on this topic. It is understood that no further action is expected.

C2.1 Output 1.2 Strengthen MOJ policy-making capacity through the Policy and Planning Department (PPD):

The project has encountered some major problems here, for reasons somewhat beyond its control. One positive development has been the work on the Rule of Law Indicators (ROLIS) initiative. This aside, the project has not been able to contribute to the projected result of strengthening MOJ capacity in policy-making.

C2.2: Three staff members were recruited by JHRA on NTA contracts to support the Director of **PPD** in preparation of high-level policy and strategy documents, enabling the Department to fulfil its core tasks. Unfortunately for the project, the new staff members were re-assigned to support the Minister's Office. While they did useful work for the Ministry, and also contributed substantially to the ROLIS Working Group, they did so away from PPD, and so made no contribution to the Department, or to JHRA's projected results. They have recently been re-assigned to the Department, but the Director indicated to the Evaluators that there is now no place for them, explaining that he is now receiving the support he needs through USAID. While the two staff members (the third resigned to pursue further studies) bear some personal responsibility for what took place, it must be noted that the National Coordinator played a role in the process, effectively undermining the project's plans, and at the same time damaging relations between the PPD Director and the project.

C2.3: These developments point to the need for a new understanding between the project and MOJ on the need for monitoring by the responsible managers of activities receiving project support. If this cannot be agreed, it puts into question the value of UNDP support, through UNDP and other projects, for NTA positions.

C2.4: Despite this setback, the work on **ROLIS** has proceeded satisfactorily and is on schedule. The PPD Director has taken ownership for the overall process, including its implementation in all core institutions in the justice sector. The work is being undertaken by a Working Group, headed by the PPD Director, and also including representatives of the Supreme Court, Attorney-General's Office, Ministry of Interior (National Police), the Central Prison Department and the Afghanistan Independent Bar Association. The indicators are intended to form the basis for an "administrative data framework" to serve and inform the planning needs of all law and justice sector institutions in Afghanistan, identifying capacity gaps. Changes in readings against key indicators over time will reveal areas of improvement, as well as areas where no progress has been made.

C2.5: The process is supported by a UNAMA/UNDP-led UN Working Group, chaired by the Head of the UNAMA Rule of Law Unit. The technical work for ROLIS is also supported by two senior international consultants, recruited by JHRA, as well as a JHRA staff member.

C2.6: The ROLIS initiative was undertaken previously by UNDP in two African countries, Liberia and South Sudan, as well as in Haiti. In its application in Afghanistan, a different approach has been taken from that adopted in the other three countries. What is distinctive about the Afghanistan case is the direct engagement of national law and justice institutions. Elsewhere,

the work was undertaken by an external expert team on a “fly-in, fly-out” basis. In Afghanistan, through the process supported by JHRA, although international specialists provide guidance and work to refine indicators, the detailed work of selection of potential indicators is being done by the ROLIS National Working Group, and through consultations within each institution.

C2.7: At the time of the field mission for the MTE, plans were underway for small teams, drawn from the Working Group, supported by JHRA, to meet with local officials in each of the 5 or 6 provinces where a pilot data collection exercise (baseline study) is to take place. Plans were also being made for a competition to hire a survey firm to plan and conduct the data collection work. With the completion of the baseline survey and the preparation of the report, it is expected that the ROLIS initiative will be completed in the early months of 2015. However, this will not represent an end-result, but merely the completion of a major activity.

C2.8: As UNDP advises, the results of the process will then feed into the proceedings for dialogue within and among the justice sector institutions on performance, effectiveness and how to mitigate the current gaps in the justice sector to provide better services to the citizens. Hence, the completion of the baseline study report will provide the foundation for a review of current programming and may also provide some guidance to UNDP and donors in focusing their assistance.

Yet, it will only be through a formal decision of the participating institutions to adopt the ROLIS process on an ongoing basis that there will be a prospect of integrating ROLIS data in planning for the sector and for ensuring that there will be transparency on the state of the law and justice sector, with progress in reform measured over time. For now, the smooth functioning of the process to produce and refine the indicators, the level of cooperation among institutions, and the ownership for the process by them, taken together, add up to an achievement that has the promise of leading on to something more.

C2.9: For UNDP, UNAMA and the donor community, *it is recommended that* an assessment be made of whether continuing levels of support at a modest level will be necessary to facilitate further buy-in to the process and moving towards institutionalization by the major justice and ROL institutions of a regular system monitoring process, utilizing ROLIS.

C3.1 Output 1.3: Increase the MOJ's capacity to effectively reform law through the Taqnin (including the Translation Board).

Under this heading and expected result, the project has continued its support to the Translation Board (formerly Translation Unit), begun under JHRA 1, where the project was instrumental in its formation. In the case of support to the *Taqnin* (the Legislative Drafting Department), as will be discussed below, rather limited results have been accomplished.

C3.2: JHRA has a continuing commitment to support *the Translation Board*, covering the NTA salaries for the Head of the Board and five translators/interpreters. Despite some staff turnover,

the performance of the Board has improved since the End-of-Project Evaluation for JHRA 1 (summer 2012). The Board is now a part of the *Taqnin*. It is now, as it was not before, capable of translation of legislation and high-level policy documents from English-Dari and Dari-English, as well as Arabic-Dari and Dari-Pashto.³¹ In part, the improvement is accounted for by the impact of the new Head of the Board, who has introduced a more efficient method of allocating, organizing and reviewing work, while also instilling a new sense of professionalism and self-confidence among the staff. At the same time, the Evaluators learned that the standards achieved still fall short of the desired level.

C3.3: There are limits to what may be accomplished in doing more to build the capacity of the Board. What may be done is considered below. However, it is important to recognize at the outset that the role played by the Board, while a low-key one, represents an important factor in contributing to enhancing the standards and relevance of legislation drafted by the *Taqnin*. It will be essential for JHRA and UNDP to do what is required to sustain its investment and ensure that the Board can continue its work.

C3.4: In assessing current standards, it must be borne in mind that the profession of translator/interpreter is barely established in Afghanistan, with little opportunity for young people to obtain access to education to prepare for work in the field. Beyond this, for those working as translators in the MOJ, the challenge is to combine a broad, formal knowledge of a relevant second language with sufficient understanding of law, legal writing and the types of language, terminology and phraseology used in legislation in Afghanistan and internationally.³² No-one who is currently employed by the Board, or who would be a probable candidate for employment by the Board at prevailing salaries (which, under the NTA format, are far more generous than for regular Ministry employees, though still not high) would be likely to meet these core competencies. In this context, it might be concluded that the Board and its staff have done well as could be expected.

C3.5: What are the possibilities for further improvement? Based on separate meetings with both the Head of the Board and the staff members, it is quite apparent that there is both the motivation and the potential for building on what has been accomplished to date. With some low-level, ongoing support, further incremental development of capacities may be expected. *It is*

³¹ In the course of 2012, 2012 and the first two quarters of 2014, 43 laws were “translated, edited and proofread” by the Translation Board, with the pace of output increasing over time. For the first two quarters of 2014, 22 laws were translated (2 from English into Dari, 10 from Dari into English, 2 from Dari to Pashto, and 8 from Arabic into Dari. *Information provided by the Head of the Translation Board.*

³² It should be borne in mind that Afghanistan’s laws are based on a variety of foreign sources, as well as older domestic laws and the *Sharia*. The translators are often asked to translate foreign legislation and policy documents as a guide to international best practices in preparation of new laws and regulations and as reference materials in the review of legislation (as discussed in *JHRA Annual Report 2013*, p.7). This creates considerable challenges in trying to convey the essence of the law and the nuances of language. In the case of English-language law, Latin phrases and expressions may be used, while laws in Arabic, for example, from Egypt, a common source, may create a further set of difficulties.

recommended that JHRA look carefully at what could be done to put in place a modest professional development plan for 2015 to support the Translation Board.

Given the small number of staff and the heavy workload, such a plan will have to be adapted to the circumstances under which the Board operates. It might include an ongoing relationship with the University of Kabul Law School to provide short training workshops and troubleshooting, as required, and to advise through occasional visits (or through email) on unfamiliar legal terminology. JHRA might also consider provision of a set of specialized dictionaries and guides, either in hard copy or on-line. No doubt, the Board would be able to supply a list of priority items.

C3.6: Beyond 2015, JHRA and UNDP will need to assess the feasibility of transferring full responsibility for the Board to MOJ, on the basis of a Letter of Agreement, while continuing to provide salary support (unless another project will take over such responsibilities), and providing safeguards to ensure that salaries are paid on schedule and that working conditions for staff continue to meet requirements. It may also be advisable to provide modest support for continuing professional development during JHRA 3. It will also be necessary for JHRA management to monitor the effectiveness of the transition to MOJ control, and provide advice as required. The same approach will be suggested for the transfer of control of the HRSU (see below).³³

C3.7: Cooperation with the Taqin or Legislative Drafting Department³⁴: The project conducted a capacity assessment of the *Taqin* in Quarter 2 (Q2) of 2013, which concluded that the quality and pace of its work was held back by the limited technical knowledge of professional staff and the large volume of work. It was also determined that there were inconsistencies in legal drafting, partly because of the absence of basic templates to guide the preparation of laws and regulations.³⁵ It was then planned that a second capacity assessment would take place, focusing on the individual staff members of the department, their current capabilities and the gaps to be filled in equipping them to master their professional responsibilities. However, this work remains incomplete and no capacity development plan has been put in place to address the gaps identified at organizational and individual level.³⁶

C3.8: Despite the absence of a formal plan of this kind, a series of training seminars was held during 2013 and 2014, involving leading legal specialists from India and Iran. However, the effectiveness of the training was limited by: the restricted time for the training seminars; the poor educational background of staff members, limiting their capacity to absorb new knowledge; and, reportedly, the limited knowledge of legal terminology of the interpreters, supporting the international experts, which led to a distortion and unhelpful simplification of information

³³ Of course, for JHRA and UNDP, acting on the recommendations of C3.5 and C3.6 depends on the availability of funds.

³⁴ The formal name of the department is Institute of Legislative Drafting and Legal Research Affairs.

³⁵ See: [JHRA Annual Report 2013](#), p.7.

³⁶ With clarifications introduced to the text included in the draft report, based on additional input from UNDP, November 29, 2014.

presented. In addition, on the basis of a request for such support, JHRA arranged for trainers in English and Arabic to hold classes at the Ministry on a regular basis. Unfortunately, very few staff members attended the classes.

C3.9: Senior staff members of the Department are elderly, and only two staff members have master's degrees, and these are from The Soviet Union many years ago. Most staff members have bachelor's degrees, but only some have studied law or Sharia. According to qualified observers, inside the government and outside, Afghan and international, as well as available reports on training exercises conducted with the *Taqnin*, the Department is conservative in its attitudes, resistant to change and in denial about the gaps in its capacities. There is very little understanding of legal research, and of the value of such research as a basis for drafting new laws. The quality of draft legislation produced by the Department remains low. Its Director spoke positively about the relationship with the project, but advised the Evaluators that, in terms of its professional and technical capacities, everything in the Department was precisely as it should be.³⁷ According to observers, there is a serious need for new, better-qualified staff, but the Department resists bringing in new recruits who might challenge the established way of doing things.

C3.10: Attitudes of this kind do not provide a solid foundation for achieving results in capacity development. It is apparent - though through no fault of JHRA - that its work with the *Taqnin* has had limited effect. As was recognized by the late Minister, there is no doubt that there is a real need for a major capacity development effort. However, there is little prospect of its effectiveness while there is no recognition on the part of the leadership and members of the Department of the need for attention to fundamentals. There is value in continuing to provide support to seminars focusing on specific pieces of legislation, but, as to capacity development, under current conditions, there is no prospect of achieving results. Unless circumstances change, ***It is recommended that*** in 2015, JHRA terminate its capacity development effort with the *Taqnin*, while still providing support for professional seminars on new draft legislation, where required.

C4.1: Output 1.4: Strengthen MOJ's capacity to produce human rights compliant Government policies and laws through HRSU.

Before considering what has been accomplished during JHRA 2, it will be important to step back to take a longer-term perspective to the development of the Unit and to take stock of its current status.

First conceived in 2008, ***the Human Rights Support Unit (HRSU)*** was established in 2010 with support from UNDP and UNAMA. Subsequently, it was integrated into the MOJ *tashkil* in the

³⁷ In nearly 40 years of international experience, the only previous occasion during which the International Evaluator has heard such a statement from a representative of a government organization, whether in a developed or developing country, or a country in transition, was in the course of a meeting with the Head of Security Services (the former KGB) in the Kyrgyz Republic in the mid-1990s.

third quarter of 2011. It has been supported by UNDP throughout its existence. It took some time for staff to undergo initial training and for the organization to begin its activities, but by the end of JHRA 1, by blending professional capacity enhancement for its staff with learning-by-doing, it had been able to move rapidly into initiating its programme of activities. Its mandate was based on a Presidential Decree adopted in mid-2011. On the basis of the Decree and with the firm support of the late Minister, the Unit was able to cooperate with the *Taqnin* in reviewing draft legislation³⁸, in working on a review of government laws for compliance with international standards as set out in the international conventions to which Afghanistan is a signatory, and in providing basic training to other government ministries and institutions in an effort to ensure that, through their actions, government officials were in compliance with international standards.

C4.2: As confirmed by the End-of-Project Evaluation of JHRA 1, by mid-2012, the Unit had made a good start on its work, and was well-accepted by several Ministries, with which it had signed MOUs for cooperation and the provision of training services. It had made solid progress, and was viewed by the Minister of Justice and senior officials as of great importance in ensuring that the government was able to take action in responding to recommendations for improvements from international authorities and institutions. While it was yet to reach the required standard of professionalism and performance to enable it to meet fully the needs of government, it had exceeded initial expectations.³⁹ Yet, given its cross-institutional role, the status of the HRSU in government remained fragile, and not all government ministries were willing to accept the legitimacy of the Unit's role, while it was looked on with some suspicion by the Afghan Independent Human Rights Commission (AIHRC).

C4.3: In early August 2014, the Council of Ministers passed the HRSU Regulation, further formalizing the Unit's position in government, and confirming its authority to act on behalf of MOJ and the government in conducting its duties, while also requiring all government institutions to cooperate with it. For all of those associated with the establishment and support of the Unit, this was a landmark and a long-awaited development.⁴⁰ The Regulation provided

³⁸ In March 2013, the late Minister issued a letter requiring that all legislation received by the *Taqnin* for review was to be shared with HRSU, and that HRSU be included in Executive Committee discussions (JHRA Quarter 1 2014 Progress Report, p.7.)

³⁹ See: End-of-Project Evaluation of JHRA 1, pp.27-28.

⁴⁰ Under the Regulation, the following "duties and authorities" are specified:

- Follow up on the implementation of international human rights treaties including optional protocols to which Afghanistan is a party by state institutions and provide technical and advisory support in this regard.
- Cooperate with state institutions and the Afghanistan Independent Human Rights Commission in implementation of ratified international human rights conventions and protocols.
- Follow up the implementation of the recommendations made by the UN, national and international Human Rights Monitoring Mechanisms, and Afghanistan Independent Human Right Commission (AIHRC) by state institutions and ensure their implementation.
- Cooperate with AIHRC and MOFA in preparing state reports to UN treaty and charter based bodies.
- Conduct human rights workshops and seminars to enhance the awareness and capacity of state officials in coordination with AIHRC.

virtually everything that HRSU and its proponents had looked for. It also attempted to resolve a number of areas of disagreement between the Unit and the AIHRC on jurisdiction and “who does what”. While AIHRC remains a little unhappy about some of the provisions, for the most part, the disagreements between the two have been settled, and there is increasing cooperation in training and other spheres.

C4.4: An important feature of the Regulation is the formation of a government-wide Task Force Committee on Human Rights Priorities, involving nine other ministries, represented at Deputy Minister level, as well as a representative from the AIHRC, and from civil society. The Committee is to be chaired by the Minister of Justice, with the Head of the HRSU acting as Secretary.

C4.5: In concert with the passage of the Regulation, plans are under development for the MOJ to increase its financial contribution to meeting the costs of the Unit, while also adding additional members of staff on government salary to the personnel complement. For 2015, it is expected that the salary costs for the Head of the Unit will be met by the Ministry from its allocation under the World-Bank-funded Capacity-Building for Results Facility (CBR), further reinforcing MOJ ownership for the Unit.

C4.6: For UNDP and JHRA, the vision has been to gradually transfer responsibility to the MOJ for the HRSU, as for the less high-profile Translation Board. With the Regulation in place, and with MOJ taking steps to make concrete the basis for its ownership, it would seem that at least some of the foundations for transition are in place.

C4.7: While the institutional architecture is now well-formed, in looking at the actual performance of HRSU, it must be recognized that, as with the Translation Board, it has yet to achieve the necessary professional standard required to meet expectations, or to demonstrate that it can be pro-active in tackling important elements of the core tasks it must undertake.

On the positive side, the Unit has made steady progress since 2012. The quality of its work has improved, along with its productivity. It has managed to deal with a negative view in government and the public sphere of human rights as an external imposition on Afghan culture

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- Collect information related to human rights situation from state institutions and executive branches and submission to Task Force Committee.
 - Review and provide recommendations on laws, regulations, policies and strategies to promote compliance with international human rights treaties.
 - Develop bills, procedures, policies and strategies for the HRSU.
 - Identify human rights priorities in coordination with relevant state institutions.
 - Prepare plans and reports for submission to the Task Force Committee and Ministry of Justice.
 - Prepare and publish reports on HRSU’s activities and the human rights situation of relevant state institutions.
 - Perform any other tasks related to human rights improvements as instructed by the Task Force Committee and/or the Ministry of Justice.

and sovereignty. It has effectively overcome resistance on the part of the *Taqnin* to giving full consideration to human rights concerns, and made important breakthroughs in building training plans with such sensitive institutions as the Ministry of Interior and the National Directorate of Security. It is also providing support to, and coordinating with, the Ministry of Foreign Affairs, through the Directorate on Human Rights and Women's International Affairs, on matters relating to responses to the reports on Afghanistan prepared by international human rights treaty bodies.

C4.8: Yet, although its professional and technical competence (at least of a core group) has improved steadily, and its work is now better organized, in many areas of its activities, the Unit continues to rely on external guidance to get the work done. For example in supporting MOFA on its efforts in preparing Afghanistan's report on The UN Convention against Torture, although the members of the Unit met their responsibilities, this was only possible with external technical support, advice and prodding. Despite increased numbers of regular government staff, the Unit remains short of suitably-qualified professional and technical personnel, as well as those with the experience to provide professional leadership in challenging assignments. None of this is surprising, since both the introduction of a human rights based approach in public policy and legislation and working with the international conventions are still new to Afghanistan. Very few have any practical familiarity with the workings of the international human rights regime.

The government staff members assigned to the Unit have no background in human rights, or in any of the kinds of work which it undertakes. They lack motivation and can offer only the most limited assistance. Similarly, the recruitment process for NTA-supported staff was not ideal, and not all of those recruited are capable of fulfilling their assigned tasks. As a result, there is dependence on a small number of staff members, who are highly committed to the tasks at hand and work hard, while still lacking the full range of skills and experience they need. Hence, paradoxically, while staff numbers increase, the Unit remains short of those with the skills and self-confidence to implement its mandate.

C4.9: There are gaps in all areas of the Unit's work, though probably that in the area of Legislative Review is the most serious. In this area, there is a need for additional technical and professional expertise in law as well as human rights, along with competence in the English language.

C4.10: Despite these many reservations, in many ways, the establishment of the HRSU and its incorporation into government structures and governance processes, and its ability to work across government in meeting its responsibilities represents a significant achievement, as well as an important result, for JHRA, UNDP and the Ministry of Justice. It is not the end of the story, and much remains to be done. However, the same could be said of virtually every area of governance in the country.

C4.11: In the case of HRSU as, to a degree, with the Translation Board, the challenge for international partners is how to apply the concept of "Good Enough Governance." It is

understood that there are limits to how much external development partners can and should do in supporting governance reform. The challenge is to know when to take a responsible decision in concluding that it is time to wrap up financial and technical cooperation for a specific institution or area of thematic work. At some point, depending on the views of the host government and other in-country stakeholders, the thinking may be that: “things are not perfect, but what is in place is not bad, given the context, and we hope that capacities will grow and standards will continue to improve in the coming years.” The difficulty is to know when a new or reformed institution, or innovation, has sufficient support and financial security within government to be sustainable. In a fragile state such as Afghanistan, where governance is contested and the legitimacy of all state institutions is weak, and where so many uncertainties persist, the risks are higher than elsewhere.

C4.10: For JHRA, UNDP and UNAMA, as well as for donors who have supported HRSU for some years, there is a dilemma. The Unit is now far better established than two years ago. Yet, its position is not sustainable financially without continued international support. Further, there appears to be a continuing need for support to ongoing professional development. However, there is a reasonable prospect for transferring control for the funds to support Unit to the MOJ, under appropriate conditions, and with judicious monitoring to protect the investment, in the foreseeable future.

C4.11: For 2015, finances permitting, ***it is recommended that*** support for HRSU should continue as is, while, at the same time, focusing on assessing the feasibility for making such a transition in 2016 or beyond, and devising a prospective timetable to implement it. One concern which should be addressed under the capacity assessment, discussed in the next paragraph, is to ensure that donor funds are not used to support NTA positions where the incumbents are not able or willing to make a positive contribution to the work of the Unit. Currently, JHRA financing covers the salaries of 13 NTA positions in the Unit, including that of the HRSU Head. Six positions, including that of the Head, are supported in the Translation Board.

C4.12: Given the continuing limitations to its institutional capacity and the deficiencies in staffing arrangements, ***it is also recommended that*** a first step should be the completion, during the first half of 2015, of a detailed, externally-led capacity assessment exercise. The process should be led by one or two international specialists with relevant knowledge and experience, supported by one or more national consultants. It should take into account broader institutional dynamics, as well as internal organizational matters. Further, so far as possible, the assessment should be done on a collaborative basis, with regular meetings with the Head of the Unit and staff, as well as with the leadership of the Ministry. Staff concerns about the implications of transfer of full control of funds to the MOJ, which, as in the case of the Translation Board, were communicated to the Evaluators, should be addressed during the process.

C4.13: While other elements of project support under Component 1, except for ROLIS, provide for continuity with JHRA 1, an additional element added to the mix for JHRA 2 has been direct

support to *the Ministry of Foreign Affairs (MOFA), through its Directorate on Human Rights and Women's International Affairs (DHRWIA)*.⁴¹ Cooperation with the Ministry is based on a Letter of Agreement (LOA). Associated with the LOA with the Ministry, a second one has also been signed with the Danish Institute of Human Rights (DIHR) to provide direct technical assistance to the Directorate. The focus of the work has been to provide guidance and support to the Directorate on State Reporting on the human rights situation in Afghanistan, with particular attention to the UN Convention Against Torture (UNCAT). Technical assistance is provided by a senior expert from DIHR, a Danish-Afghan dual national, who has substantial experience in the field. He is supported by a national expert, who is based at MOFA for the duration of the assignment.

C4.14: The assignment has focused not only on the actual reporting, but, more fundamentally, on building the capacity of government structures: to create commitment to human rights values within government; to build an understanding of the role and responsibility of the Afghan state regarding international mechanisms to protect and promote human rights; and, to organize and institutionalize a sustainable mechanism on human rights reporting within the government.

C4.15: Probably, the greatest success has been achieved in the building of a mechanism which can be utilized on a continuing basis, headed by a high-level Steering Committee, supported by a Technical Working Group, with both bodies including representatives of all relevant ministries and state institutions. The picture is completed with the inclusion of the supporting role played by the Coordination Committee, the secretariat for the state reporting process, consisting of the MOFA Directorate and HRSU. The Coordination Committee solicits and processes inputs and reports to the Technical Working Group. The architecture and procedures for the mechanism are in place and can be put into action as required, with a varying cast for the two ministerial bodies, depending on the nature of the treaty which forms the subject of the report.

C4.16: However, when it comes to building capacity to actually take on the work and manage the work process, there is a major problem. The root of this rests in the rotational nature of staff appointments in the foreign ministry, which precludes continuity in the membership of the staff of DHRWIA along with the preservation of corporate memory. Consequently, there is no end to the cycle and the need to provide basic training, and for staff members to build knowledge through practice. Until such time as MOFA introduces a specialist stream to its human resources plan, so that there is the opportunity to build expertise over time without constant rotation of positions, the problem will remain. Under the circumstances, it is not surprising that it was HRSU staff, under the direction of the DIHR team, who did most of the substantive work required of the secretariat.

C4.17: Over time, there will be increasing numbers of career diplomats who pass through the Directorate, and that will probably serve to infuse into MOFA a broader understanding of human

⁴¹ Consideration by JHRA of providing assistance to the Ministry and its Directorate was recommended in the End-of-Project Evaluation for JHRA 1 (see p. 44).

rights and the obligations of the Afghan state under international conventions and agreements. However, this will not contribute much to the objective of building up the expertise in MOFA to strengthen its capabilities in the substance and process of human rights reporting. This issue is one that may be best addressed through dialogue between the UN and the international community and MOFA and senior levels of government. Perhaps in the short run, it is UNAMA's human Rights Unit which should take the lead in pursuing the matter. It is suggested that JHRA and UNDP take this issue up with UNAMA.

C4.18: In the meantime, for JHRA and its donors, there is the option to *either* continue to provide support to the reporting process, on the understanding that it will be a matter of continually pressing the “repeat” button, *or* to halt support. Given the importance of the function relating to reporting on the international human rights conventions and responding to recommendations put forward by Treaty bodies, ***it is recommended that*** JHRA, UNDP and donors maintain support, as planned during 2015. ***It is also recommended that*** UNDP and UNAMA Human Rights Units together convene a meeting with the international community to consider how best to provide support in 2016 and beyond, given the circumstances described here. Funding permitting, continuing support through JHRA 3 remains a possibility, but there should be no illusions about the sustainability of such arrangements, or of the likelihood of achieving capacity development results.

Output 2: Mechanisms for providing quality access to justice services to vulnerable groups are established and functional

C5. Under Component 2, there are three major initiatives, all of which were begun in JHRA 2 and will be expected to continue in JHRA 3. These are: the establishment and operation of the Legal Aid Grant Facility (LAGF); facilitating coordination and cooperation between State and Non-State Justice Providers at provincial and district levels; and, activities related to the Elimination of Violence against Women (EVAW). The third of these programming initiatives is included in a broader sub-output, which also includes the expansion of the National Legal Training Centre (NLTC), with a new centre to be established in Herat, based on the model of the first such centre established in Kabul; it also includes training to be provided to local justice officials. Such training also took place in JHRA 1. Except for the NLTC initiative, all other activities are being implemented in four provinces: Nangarhar, Herat, Helmand and Balkh.⁴²

With effective coordination across the four initiatives, as well as with other projects and programmes, there is the prospect of concrete results, so long as operations can be carried on and deepened through 2015 and into JHRA 3. It will be essential for there to be coordination with UNAMA, as well as other UNDP projects, including LOTFA (Law and Order Trust Fund for Afghanistan), the Afghanistan Sub-National Governance Programme ASGP II and the Gender

⁴² It might be noted that, of JHRA's donors, Italy has a particular, and long-standing, focus on Herat, while Denmark's priority is Helmand.

Equality Project (GEP), as well as with other UN agencies, including UN Women, a key supporter of the Ministry of Women's Affairs (MOWA) and the provincial-level Departments of Women's Affairs (DOWA), UNFPA, which is supporting Family Response Units in the offices of the National Police, and UNODC (the UN Office of Drugs and Crime), which, in collaboration with EU POL (European Union Police Mission), is providing support to the Ministry of Interior and the National Police, including the Criminal Investigation Department (CID), directly relevant to EAW activities.

The project's work at provincial level is supported by *regional coordinators*, who are project staff members. Three are in place, with a fourth, in this case only, to be engaged by MOJ, rather than by JHRA, being recruited. In addition, The Afghanistan Independent Bar Association (AIBA) has offices in each of the provinces, with Office Managers, who are lawyers, to provide local leadership to the LAGF process.⁴³

C5.1:

2.1 Establish independent Legal Aid Grant Facility and supporting mechanisms

After a lengthy process of dialogue and dispute, focusing on organizational, financial and inter-institutional issues, the proposal to establish the *Legal Aid Grant Facility (LAGF)* was finalized and approved by the three parties to the agreement: MOJ, UNDP/JHRA and AIBA. There had been strong disagreements between the Legal Aid Department of MOJ and AIBA on management of the process. However, ultimately, the preference on the part of UNDP and donors – a position, ultimately, supported by the late Minister of Justice - to have legal aid delivered by independent defence lawyers, and not those engaged by the government, led to a decision for AIBA to take responsibility for management of the process, with legal aid services offered by AIBA-registered lawyers working on an agreed fees scale.

C5.2: With the guidance of an independent expert on legal aid, and following detailed consultations and a 3-day stakeholder workshop, a full set of procedures was prepared and formally adopted. A Letter of Agreement (LOA) was then signed, on the basis of which JHRA support to LAGF was then put in place, with the first tranche of funds transferred to AIBA in June 2014. Subsequently, the first set of cases (400 in all) was assigned to lawyers through AIBA's provincial offices. Prior to this, training had been provided in Herat by AIBA for registered lawyers, and, in addition, orientation seminars had been held for local justice officials, as well as the Departments of Women's Affairs and representatives of UNDP's Gender Equality Project (GEP) in the four target provinces, along with AIBA-registered lawyers.

C5.3: It has taken a long time for LAGF to be established and become operational, and it will still be some time before processes are tested and working smoothly. In turn, it will be some time beyond this before it becomes clear whether the project is making a difference by resolving cases

⁴³ Support to AIBA from the project includes funds to set up and equip the Helmand Office.

and enhancing access to justice for under-served vulnerable groups, particularly women and children. The priority for 2015 should be to ensure that the Facility is working effectively in all four provinces, that all procedures are operating smoothly and as intended, that all lawyers who are active with LAGF are committed to their work and properly prepared to represent the best interests of their clients, and that financial arrangements for payment to lawyers are adequate to ensure that clients receive appropriate legal support.

C5.4: There is still much to be done in clarifying how cases are brought to the attention of the AIBA offices, how decisions are made on which cases are selected for referral to lawyers, how well-publicized the availability of legal aid services is at district level, and how accessible LAGF support is to those who are in greatest need of assistance. In this respect, it will be important for the AIBA Offices to establish effective working relations and communications with the provincial DOWA, the *Huquq* of MOJ, and the National Police, as well as with local government and representative bodies, civil society, and local religious and traditional leaders. Much depends on the good will and competence of the lawyers registered with the AIBA Offices.

C5.5: Monitoring and evaluation of the legal aid process and the effectiveness of support provided is one of the responsibilities of AIBA, and it will be important that JHRA ensures that the Bar Association has a robust and realistic M&E plan, along with the capability and the will to implement it.

C5.6: Guidance on these and other matters may well come from the JHRA Mid-Term Review (MTR) of the LAGF, scheduled to take place in the fourth quarter of 2014.

C5.7: In the view of the Evaluators, establishing and strengthening the LAGF is, potentially, of central importance in the effort to enhance access to justice in Afghanistan. There are many additional steps to be taken before it can prove itself and demonstrate that it can make a difference. A key factor in the establishment of the Facility was the support of the late Minister, who was impatient to move ahead during a time when there were delays caused by UNDP Country Office (Rule of Law Unit) and UNDP New York, before the LOA for LAGF was approved. It is well-known that the Legal Aid Department (LAD) of MOJ is much less enthusiastic about the path taken than was the late Minister. This was made abundantly clear in a long meeting between the Director of the Department and the Evaluators. It will be essential for JHRA to work hard to ensure that LAD comes to accept the LAGF plan.

C5.8: One legitimate grievance raised by LAD, which should be addressed, focuses on the makeup of the membership of the LAGF Committee. There are also provincial committees, similarly constituted. The balance of membership is too heavily tilted towards AIBA and those closely associated with it, and there is a need to broaden the base. As matters stand, there is a risk –not only in the eyes of LAD – that the LAGF be viewed as too much of an AIBA-owned institution. In order to ensure credibility with the public, as well as stakeholders, It is vital that

broader perspectives are brought to bear on legal aid, and that AIBA have access to a wider range of views to inform decision-making and direction-setting.

It is recommended that JHRA consult with AIBA, the Independent Legal Aid Board and LAD, with the objective of expanding the base of membership of the LAGF Committee, replacing the current “civil society” representative with a representative of a reputable truly independent civil society legal aid provider, while also adding a representative (again, with no close links to AIBA) of a leading non-government women’s organization, active on access to justice issues. Equivalent changes should be made to the Committees at provincial level.

C5.9: As noted earlier, cooperation with the World Bank in legal aid has proved to be problematic. In a communication with the MTE Team Leader, the Bank’s Task Manager summarized the Bank’s reservations on the approach taken, and the methodology of implementation adopted, by the LAGF, with particular emphasis on the weakness of mechanisms for ensuring the integrity of the system, as well as for monitoring and quality control.

C5.10: As is well-understood, the Bank’s emphasis, through one component of its Justice Service Delivery Project (JSDP), is on institutional arrangements for provision of legal aid from within government. As part of this programme, work is to be undertaken on the preparation of a Legal Aid Road Map and Regulatory Framework. The late Minister was keen to move ahead with the LAGF prior to completion of these documents. Given that the work is yet to begin, this is understandable. It remains to be seen whether the Road Map and regulatory framework will be adopted by the Ministry, and, if so, whether they may have any impact on the LAGF and its future. ***It is recommended strongly*** that JHRA, UNDP senior management and JHRA’s donors maintain a watching brief on developments, and that they be prepared to enter into dialogue with the Minister of Justice and the World Bank should there be a potential problem resulting from the regulatory framework which might threaten the investment made in the LAGF.

C5.11: It is the view of the Evaluators that support for the LAGF should continue on its present path during 2015, with the adjustments to the LAGF Committee recommended, and bearing in mind considerations emerging from the MTR, and with regular monitoring by the management team. Beyond this, all being well, it is expected that support to the LAGF will be a central feature of JHRA 3, combining with other elements supporting enhanced access to justice at provincial and district level.

C5.12:

2.2 Consolidate communication and coordination between State and Non-State justice providers at provincial and district levels

Action on this element of the project appears to have been somewhat slow in unfolding, but, quietly, progress has been made. There is no doubt of the importance of the issue for access to justice and human rights in Afghanistan. A considerable majority of Afghans have more faith in

various forms of community-based conflict resolution than in the official justice system, which is viewed as distant and inaccessible, difficult to understand, expensive and corrupt. On the other hand, numerous studies point to problems, limitations and biases of the traditional justice system.

Accordingly, JHRA brought together representatives of the official and traditional justice systems in a series of provincially-based seminars and workshops which took place between June and December of 2013 to review ways in which representatives of the two systems may establish coordination mechanisms between the two systems. Meetings always included religious leaders, representatives of civil society, and of AIHRC. A week in duration, they focused on training in rights-based mediation, arbitration and conflict/dispute resolution. In addition, attention was given to exploring how steps could be taken to ensure that *Shura* and *Jirga* might operate in line with the *Sharia*, human rights and the law. Consideration was also given to ways through which traditional justice forums might be recognized, and the support which could be provided through legislation. A further concern was to consider the development of mechanisms for transfer of criminal cases from the traditional justice forums to the state system.

C5.13: The seminars and workshops were one source of data, along with a series of small group meetings held in the target provinces by the expert on Afghanistan's Non-State justice systems engaged by JHRA, which provided the background for the development of a policy study, intended to form a basis for reform of policy and legislation. The report based on the study included a set of recommendations, which were drawn on in the making of revisions to the *Shura* and *Jirga* Law, and the associated policy, which has been placed on the legislative calendar for the coming months.

C5.14: On the basis of what had been learned from the workshops and the associated research, subsequent efforts were made to work with key State Justice stakeholders: the Supreme Court and judiciary, MOWA and women's organizations, the AGO and AIHRC – all initially sceptical on the value of cooperation with the traditional justice system. Their positions have changed, and both the Supreme Court and MOWA, both strongly opposed at the beginning, are now more positive.

C5.15: A good foundation has been built. The challenge for JHRA will be to devise an appropriate methodology to continue the work, to take practical steps to make cooperation between the two systems concrete, and to contribute to strengthening the quality of justice available to citizens, whether through mediation and dispute resolution or the courts, while also improving accessibility and practical coordination between the two systems. It is apparent that there is a need now for JHRA management to give greater priority to this initiative, in order to use 2015 to shape and implement an effective approach and practical framework through which the two systems may work together. If the project is able to do this, it will provide an important piece of the bigger picture of enhancing access to justice and human rights at community level. In doing this, it will complement the work being undertaken on legal aid, provision of professional development for justice officials, and tackling domestic violence.

C5.16: The importance of this work in meeting the needs of Afghan citizens suggests that it should be a priority for JHRA 3, as well as the remaining period of JHRA 2. ***It is recommended that*** JHRA reviews its priorities, with a view to ensuring that the investment of management time, technical support and financial resources are sufficient to ensure that there is real progress with the State/Non-State Justice Cooperation and Coordination initiative during 2015 and beyond.

C5.17:

2.3 Enhance the professional capacity of State Justice service providers (including respect for due process)

Expansion of the ***National Legal Training Centres*** Programme: there is already one National Legal Training Centre (NLTC), situated in Kabul, which is fully established and providing educational programming. The Centre is operated through the Law Faculty of the University of Kabul and offers professional development programmes for justice officials, including a number of courses leading to certification. Particular attention is given to due process. Under this element of Component 2 of the project, JHRA intends to expand the reach of the NLTC programme by supporting the establishment of additional centres, attached to the law faculties of Herat, Nangarhar and Balkh Universities.⁴⁴ The initial focus for the initiative is to establish a pilot centre in Herat. All necessary consultations for this venture were completed during 2013, both on the establishment of the facility and the scope and content of the curriculum. Progress in moving on this plan has been very slow, mainly as a result of a lack of success in recruiting suitably-qualified consultants to lead the work. However, work is now underway.

C5.18: During 2015, it is expected by the Evaluators that the Herat NLTC will be properly established, with its curriculum in place, and offering initial courses. ***It is recommended that*** plans to support the additional centres be put on hold, at least on a temporary basis. It is too early to determine whether the NLTC initiative should be pursued further. In principle, the setting up of a network of such centres represents a valuable mechanism for strengthening access to professional development, as well as reinforcing fundamentals, for justice officials. However, we need to know more about the capacities of the Law Faculties and their ability to adapt curriculum and training methods to the learning needs of those to be trained, many of whom may have not had the opportunity for achieving the educational standard to equip them to assimilate more advanced technical and professional material. Ideally, training for all cadres of trainees, from whichever institution, should follow a training plan designed for that specific group. Certification programmes normally meet this need, but it is not necessarily the case with other programmes. Perhaps this is being taken into account in the development of detailed plans for Herat. The Evaluators were unable to determine whether this is the case.

⁴⁴ See: JHRA Annual Project Progress Report 2013, p.25.

C5.19: *It is further recommended that* JHRA makes a careful assessment of the NLTC programme and of the feasibility of plans to expand the network beyond Kabul and Herat. In consultation with the law and justice sector clients, it will be helpful also to review experience with the effectiveness of programmes provided by the Kabul NLTC in meeting the needs of its clients. On the basis of information obtained through this review, a decision should be made on whether to include support for the expansion of the NLTC programme under JHRA 3, and, if so, whether it may be advisable to consider adjustments to the model prior to approving further investment in the programme.

C5.20: While planning has been proceeding for the NLTC initiative, *provincial-level training for justice officials* has also been taking place through cooperation between the project and UNODC, as well as with the UNDP LOTFA project and EUPOL. All of these organizations have substantial experience in providing training at provincial level, and, all work was planned and implemented professionally. However, such training raises a number of questions.

C5.21: There were particular problems with joint training for police and prosecutors conducted by LOTFA/EUPOL. It is widely known that a substantial majority of police officers are illiterate. Yet, a decision was made to conduct joint training with prosecutors, most of whom – though not all, apparently, because of the vagaries of the appointments process - have bachelor’s degrees, mainly in law. Not surprisingly, the joint training was found to be a complete failure. It seems extraordinary that international organizations with such detailed knowledge of their spheres of activity should have made such an error. It also suggests that JHRA management needs to be more vigilant in reviewing plans of its partners in advance.

C5.22: A more basic question concerns the overall place of the training in professional development plans for the provincial justice institutions. Where these plans do not exist, it would be a first priority to work in partnership with the institutions to build such plans based on a careful assessment of current competencies, capacity gaps and priority organizational needs.

C5.23: During JHRA 1, a great deal of money was wasted on “naked training”: training provided without reference to longer-term professional development priorities and without follow-up. While all training was well organized and implemented effectively, and all provided much-needed information, it was delivered in an ad hoc manner, with no follow-up, and with no assurance that trainees would be able to put new knowledge into effect. It was unlikely that much of the knowledge and information imparted would be retained and applied.

C5.24: Major international NGOs, such as OXFAM, use the term “accompaniment” to describe their preferred approach to capacity development. It offers a valuable lesson in thinking about the context for training. It means that an initiative begins with time spent with the organization from which the trainees originate, enabling the expert support team to develop an understanding of their work settings and the character and scope of their professional/technical responsibilities. Such an approach also provides the opportunity for discussing with managers and supervisors the

areas where improved skills and knowledge are most needed in meeting expectations, as well as the competencies required for job enrichment and eventual promotion.

There is little purpose in training local justice officials on integrity, ethics and human rights, if there is not also a prior commitment by host organizations at local level to live up to the standards and implement the practices associated with these values. Further, if officials are desperately in need of training in basic, practical skills, until these needs are addressed, there will be little receptivity to what may be viewed as more abstract ideas and concepts, even if delivered in a practical way, emphasizing what it means in daily work. Further, any training should take full account of the educational level and absorptive capacities of trainees. Finally, accompaniment implies returning to the workplace to follow up with trainees and other stakeholders in their training on the value of what was learned and whether they now have sufficient knowledge and self-confidence, as well as the opportunity, to put what was learned into practice. Information gained through such discussions feeds into further dialogue with management and informs plans for ongoing professional development.

C5.25: It may be that the training conducted by UNODC is based on sound analysis of needs and organizational requirements, as well as of the background and competencies of trainees, and this is not intended as a blanket criticism of all training conducted by the project. However, these reservations about training supported by the project also apply to activities under other components. It cannot be repeated too often that training alone is NOT capacity development. ***It is recommended strongly that*** JHRA reviews its practice in the utilization of training and develops a common approach to the planning of training initiatives viewed from a broader capacity development perspective.

C5.26: ***Elimination of Violence against Women (EVAW)***: This element of the project has moved ahead at a good and steady pace, and a substantial contribution has already been made, with the work led by a senior international expert on the subject, a practising lawyer, who has devoted many months to the work during 2013 and 2014. Following preparatory consultations, the initiative began with a programme of detailed research and fact-finding, conducted in five regional centres, and culminating in the production of a massive report in August 2013 on “*The Critical Areas, Functions, Gaps and the Ongoing Work of the EVAW Units*”.

As its title might suggest, the report is extremely thorough. It begins by painting a broad picture of a system for addressing domestic violence through the legal system that is broken and needs rebuilding from the ground up. It concludes with a focus on what could be done to fix it at provincial level, laying out a sequence of practical steps which might be taken, with a particular focus on strengthening the EVAW Units in the offices of the Attorney-General’s Office (AGO), responsible for prosecution services at all levels. The report was widely distributed and its findings and recommendations adopted by the AGO, and endorsed by other stakeholders.

C5.27: Further contributions by the project, through the international consultant, included the preparation of materials on EVAW-related topics for inclusion in the NLTC curriculum. In addition, work was done on the EVAW Law and on guidance notes for the AGO on drafting indictments based on the EVAW Law. Standard Operating Procedures have also been drafted to guide the component parts of the EVAW Law prosecution system, including the EVAW Units of AGO and the Family Response Units (FRUs) and other parts of the Criminal Investigations Department of the National Police (Ministry of Interior). Further, plans have been developed for establishing a pilot EVAW Court, to ensure that domestic violence cases receive priority attention in courts. The establishment of such a court also reduces the risk of such cases being pushed to the bottom of the case pile in the regular court sessions, delaying the dates for hearing the case, and increasing the likelihood of pressure being placed on the woman complainant to withdraw the case.

C5.28: The plans for the pilot court formed the basis for dialogue with core stakeholders, and have been adopted by the courts, AGO and other principals and stakeholders in Herat, where the pilot court will be established. The international consultant has been asked by stakeholders and JHRA to continue her involvement in the process, advising on implementation of the plans developed.

C5.29: This initiative by the project represents an extremely timely intervention to support a significant strengthening of the state justice system to prosecute cases of domestic violence, and to build a more accessible and client-friendly system. It is also a key part of the project's overall objective of enhancing access to justice, particularly for vulnerable groups. Many challenges remain, including the adding of psycho-social assessment services to the system, to be provided by specially-trained psychologists or social workers, and ensuring the presence of a Victim's Advocate in the court, to assist in guiding a complainant through the legal process. In addition, it will be necessary to bring the availability of the EVAW Court to the attention of the traditional/informal justice sector institutions, and to work with the *Huquq* of the MOJ, the mass media, MOWA, women's shelters, women's organizations and other civil society groups, to disseminate information to women on how to access the EVAW Court.

C5.30: Making the system work will also require addressing some more fundamental problems, characteristic of the law and justice sector, most notably the pervasive corruption of police, prosecutors and, particularly, judges. In part, this will be dealt with by selecting responsible judges and prosecutors from a panel of those who have completed special training. However, there will be an ongoing requirement for independent, low-profile monitoring to assess whether the system is working as intended, and identifying problems areas requiring attention.

C5.31: The work on the EVAW justice system is one part of the overall effort under ***Component 2*** of the project to enhance the prospects of obtaining justice and just treatment on the part of vulnerable groups in society, most notably women and children. The decision to focus on a small number of provinces and implement a range of key activities in the same locations, giving

simultaneous support to strengthening legal aid, making the State/Non-State Justice connection work to the benefit of ordinary citizens, strengthening the capabilities of local justice providers, and building the EAW system, provides for a series of mutually-supporting initiatives. For 2015, and, more particularly, JHRA 3, the practical goal will be to bring the initiatives into a practical “coalition”, where the benefits of inter-linkages across the initiatives can be seen clearly in terms of real results.

C5.32: ***It is strongly recommended that*** support for implementing the EAW system during 2015 and JHRA 3 continues, and that adequate financial and technical support is provided to ensure that all necessary steps are taken to test, monitor and strengthen the system, and to work towards institutionalization. ***It is further recommended that*** in continuing its work, JHRA works closely and collaboratively with UNAMA, UNW, UNDP’s GEP, UNFPA and UNODC.

C5.33: Mention was made at the outset of C5 on the presence of four Regional Coordinators. These positions are not well-defined, and it is not clear that the project is making effective use of them. Their role is of potential importance in providing support and local knowledge to all initiatives supported under Component 2, as well as some operating under Component 3. Hence, ***it is recommended that*** the TORs and reporting arrangements for the positions be reviewed, and that detailed work plans are developed by project management, in consultation with the position-holders, and in support of the AWP for 2015.

It is further recommended that, in support of their more effective integration into the project team, arrangements are made to enable the Coordinators to travel to Kabul on a quarterly basis to take part in meetings with the project management team to review developments and plans, while also giving feedback to project managers on progress and issues emerging at provincial level.

C6. Output 3: Public participation processes and knowledge base for improving access to justice and human rights compliance successfully established

The focus of Component 3 is mainly on civil society and understanding of, and engagement with, the justice system by citizens. In addition, it supports research studies to support the other two programming components. Hence, the study on State/Non-State Justice, discussed above, was carried out under Component 3.

C6.1: *Facilitate national discussions and policy dialogues on socio-economic rights and community dispute resolution mechanisms*

Work under this heading has concentrated on business and labour rights and the particular case of ***street vendors***. Activities undertaken aim to produce a legal and policy framework under which the specific needs of street vendors, a large, but highly vulnerable, group in Afghanistan, can be recognized and their rights affirmed and protected. Exploratory research and consultations took place in Kabul and Herat, leading to the establishment of Technical Committees, led by

senior municipal officials (the Deputy Mayor, in the case of Kabul) and involving the Street Vendors' Association, police and other government and civil society stakeholders, including AIHRC. The Committees act as a forum to generate policy recommendations and proposed revisions to the legal framework.

C6.2: A “National Discussion” meeting was held in Kabul in July 2013 to develop a shared understanding of the challenges faced by the street vending community and to develop strategies to improve their working conditions. Regular meetings and consultations have continued, and the Evaluators learned that there is a strong commitment on the part of municipal leaders in Kabul to the process and achieving an outcome satisfactory to the street vendors. Further action by the project has been limited in recent months, but a full-time international expert has been recruited by JHRA to work on completing the initiative during 2015. He arrived in September 2014, and expects to complete his assignment by the end of Quarter 3 of 2015. He will lead the process of developing a policy framework for consideration by stakeholders, as well as draft legislation.

C6.3: Increase advocacy and monitoring capacity of CSOs, media, think-tanks and the AIHRC

Support to *The Afghanistan Independent Human Rights Commission (AIHRC)*: The international community has been a strong supporter of the AIHRC from the beginning, and the institution continues to attract substantial donor support. Yet, for the most part, this support consists of the provision of core financial assistance. JHRA has aimed to complement this vital support with technical assistance to ensure that the Commission is strengthened in key area of its mandate, while also improving its strategic focus.

C6.4: In the End-of-Project Evaluation of JHRA 1, it was recommended that, in the future, UNDP support to the MOJ's HRSU should be complemented by cooperation with the other two core institutions in Afghanistan's framework for human rights promotion and protection, MOFA and AIHRC. Despite the difficulties in providing effective capacity development support to MOFA, discussed above, in order to appreciate how best to support the national human rights framework, it is beneficial for JHRA and UNDP to be simultaneously engaged with all three institutions, though on a different basis in each case, according to circumstances.

C6.5: In the course of JHRA 2, the project has provided support to the development of the organization's new strategic plan, while also following up on an institutional capacity assessment with a set of training programmes, conducted, in part, in cooperation with senior experts from the Indian National Human Rights Commission, with activities taking place in both Delhi and Kabul. Training included specialized training for AIHRC's investigators from provincial offices.

C6.6: The cooperation with AIHRC on *strategic planning* was led by a former Commissioner and Deputy Chair, acting in a consulting capacity. The programme of activities included facilitation of a broad-based country-wide consultative process, and has proved to be extremely successful. The JHRA team was hands-on in introducing a number of issues central to UNDP to the approach taken to the Plan, including a human-rights-based approach to planning,

incorporation of the gender dimension, and engagement with civil society. The Strategic Plan has now been accepted, and JHRA has been asked to continue to extend its support to implementation of the plan. This linkage, which also facilitates dialogue on strategic directions and priorities, is now well-established. A good working relationship has been formed between JHRA and AIHRC, and *it is recommended that* cooperation should be continued into JHRA 3, funds permitting. Attention should focus on ensuring that AIHRC focuses on enhancing the quality of its core business, where much work remains to be done, and on adoption of a results orientation in planning and implementing activities.

It is further recommended that, given the Commission's substantial core budget, efforts should be made to draw on these funds first in covering the costs of providing technical assistance, before committing additional JHRA financial support. *It is also recommended that*, in order to reinforce UNDP's demonstration of its appreciation of the importance of an independent human rights commission, efforts be made to include AIHRC, at least as a member of consultative bodies, in all relevant initiatives undertaken in JHRA 3.

C6.7: The work to support *capacity development* has been less successful. It appears that stronger guidance from JHRA was required in developing a capacity development plan to follow through on the capacity assessment. A number of training courses were provided through a partnership with the Indian National Human Rights Commission. Unfortunately, AIHRC seemed ill-prepared for the training programmes offered, whether conducted in Delhi or in Kabul, and failed to take advantage of the opportunities offered to it by the Indian Commission. Trainees seemed to lack motivation for the training, and, in the case of training on investigations, lacked the educational basis and experience to benefit from the programme, despite advance assurances that had been provided to the Indian experts. Many had experienced no previous training.⁴⁵

Beyond this, as noted in earlier discussions in this report in consideration of Component 2, training alone does not amount to capacity development. A capacity assessment is of little value if it is not followed with a detailed plan and development of appropriate methodologies and strategies for strengthening institutional capacity to perform core tasks, agreed with the institution to be supported. Hence, in the absence of such a plan, resources invested in capacity development have not been used to good effect, despite the high quality of the training provided.⁴⁶

⁴⁵ One of the challenges for AIHRC is that it is continually losing talented young staff to better-paid positions with international organizations.

⁴⁶ In April 2013, following a 2-part capacity assessment exercise supported by the project, a report was delivered entitled "A Capacity Development Action Plan", which offered a very complete analysis, based on consultations with management and staff, of the current state of the Commission, as well as a draft action plan to address identified gaps. The Report set out a very wide-ranging set of activities to move the Commission forward. However, what was required next was a coordinated effort at implementation, with greater attention to *HOW* the actions would be implemented and followed up. It appears that there was no systematic approach to implementing the plan, which, by now, in any case, seems to have been overtaken by the Strategic Plan.

If there is to be a continuation of cooperation on capacity development, based on the Strategic Plan, it will be advisable for such cooperation to be based on a detailed plan accompanied by an MOU, including the commitments of AIHRC, and which does not assume that training, by itself, is the answer to building capacities.

C6.8: *Training for Civil Society Groups*: The Component 3 team has taken steps to build a network of *civil society groups* engaged in the human rights and law and justice spheres, and has provided training courses on such topics as the human-rights-based approach, social accountability and results-based management. These have been well-received. However, as yet there is no explicit strategy to guide the work and no mechanism, except in relation to public legal awareness (see below) to facilitate regular engagement with relevant civil society groups.

C6.9: During 2015, it will be necessary to assess whether and how JHRA should continue to work with civil society, which has a vital role to play in ensuring that the voice of citizens is more clearly heard in dialogue on policy and legislation, as well as in articulating the priorities of local communities and social groups, and in monitoring government actions, or inaction. Clearly, Civil society has a key role to play in engagement with the priority areas on which JHRA is engaged under Component 2, as well as in cooperation with, and offering constructive criticism of, the country's human rights institutions, including AIHRC.

Should the project's support for civil society be folded in with these areas of engagement, as well as with PLA activities, *or* is there a case for a distinctive project component focusing on civil society? ***It is recommended that*** during 2015, the JHRA management team, in consultation with UNAMA and other stakeholders, consider how to answer this question and determine how best to work with civil society in JHRA 3.

C6.10: *Strengthen the public's awareness of human rights and the role of the justice system through the MOJ Public Legal Awareness Unit and media institutions*

Support for ***Public Legal Awareness*** was a component of JHRA 1, where assistance was provided to the MOJ Public Legal Awareness Unit (PLAU), to develop its capacity and support the preparation of the National Public legal Awareness Strategy and Action Plan. Substantial funds for programming were also made available to civil society organizations, engaged in public awareness work. The PLAU proved unable to play the coordinating role envisaged, and programming went ahead without any mechanism for coordination. The End-of-Project Evaluation for JHRA 1 determined that much of the programming produced was imaginative and of good quality. However, because of lack of coordination among the CSOs involved, the absence of common and consistent messaging, and a failure to integrate programming with ongoing work in local communities by other government and civil society programmes, the initiative produced no results and had little impact.

C6.11: Little had happened as a result of the development of the National Public Legal Awareness Strategy prepared with the support of JHRA 1. Learning from the experience of

JHRA 1, and the consequences of uncoordinated action, the focus of the second phase of the project has been on strengthening the capacity of PLAU to take a leading role in national public legal awareness work. This is a high-risk endeavour, since the Unit has proved unable to absorb new knowledge, whether provided by UNDP and UNAMA, USAID, GiZ (*Gesellschaft für Internationale Zusammenarbeit*), or others.

C6.12: Efforts by the project during 2013 and 2014 have included the preparation of a report based on a survey of public perceptions of justice and human rights and the formulation of a new PLA Strategy, with the work led by an expert from an Afghan communications firm, working through an intensive participatory process with members of the PLAU. The two assignments were carried out by the same firm, with a sub-contract to a specialist survey firm; the work for the survey was done very well, the data is highly relevant and the report is of good quality.⁴⁷

The survey was conducted in four provinces (Balkh, Herat, Kabul and Nangarhar), involving interviews with 3,072 respondents. The PLAU Communications Strategy (June 2014), which drew on the results of the survey, is well-written and thorough in its coverage of key concerns and topics, and represents a useful resource. However, its effectiveness *as a plan for action* is less clear. It places too much direct responsibility in the hands of PLAU - which is lacking both in numbers of staff and outreach capacity - while also giving insufficient attention to practical questions of *how* things will get done.

C6.13 In addition, support was provided for the establishment of a government-wide Public Legal Awareness Coordination Committee, involving eight government ministries, the Supreme Court, the *Ulema* Council, AIHRC and CSO representatives.⁴⁸ The Committee is intended to serve as a forum for dialogue and exchange between government and civil society organizations, to coordinate PLA networks “in order to present a common message to the public” and to broaden dissemination networks.⁴⁹ The Committee has met regularly since September 2013. Several meetings were held in September and November 2013 with CSOs working in ROL and human rights to facilitate a link between them and the Committee.

C6.14: At the request of the late Minister of Justice, work is also underway on the formulation of a regulation to provide an official basis for the PLA Coordination Committee.⁵⁰

C6.15: As the experience of JHRA 1 demonstrated, the engagement of civil society and of mass media will be critical, since the expertise for developing and disseminating outreach products and designing campaigns to reach local communities rests with them, and not with government. It remains to be seen whether the current architecture, where civil society representatives are a small minority of members of the Coordination Committee, will be effective. If the signal from government is merely that civil society will be regulated and controlled, it will be unlikely to

⁴⁷ Justice and Human Rights Assessment, Balkh, Herat, Kabul and Nangarhar: Ministry of Justice, December 2013.

⁴⁸ JHRA Annual Progress Report 2013, p.38.

⁴⁹ *Ibid.*

⁵⁰ See: JHRA, Quarter 1 2014 Progress Report, p.24.

produce the cooperative and creative response that is required. Further, it remains the case that PLAU lacks the managerial competency, the technical knowledge and the motivation and incentive to play a leadership. As currently constituted, the evidence is clear that it remains impervious to outside efforts to build its capacities.

C6.16 As in the case of the Department on Human Rights and International Women's Affairs (DHRWIA) in MOFA, PLAU lacks the professional/technical expertise required for fulfilling its mandate. In most other departments and agencies of government, communications is recognized as a sphere requiring specialized knowledge and skills. With its particular focus on enhancing public awareness, the need is even greater in the case of the MOJ.

C6.17: The End-of-Project Evaluation for JHRA 1 included the following conclusion on the effectiveness of support to the PLAU: *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.*⁵¹ It is not the fault of JHRA, but exactly the same comment could be made today, with the qualification that there is now clarity on the absence of the capacity required. The establishment of the Coordination Committee is an important step forward, but a Committee cannot manage or direct programming.

C6.18: As yet, half-way through the project, no PLA programming has been delivered. In part, this is a consequence of the recognized need to move carefully after the expenditure of substantial funds and the poor results achieved in JHRA 1. In part, it is because of the desire to focus first on building appropriate mechanisms for coordination. In the view of the Evaluators, it will be desirable to ensure that the creative forces, on whose knowledge and skills the effectiveness and reach of PLA programming will depend, are not pushed aside by an almost instinctive government concern for control. It is understood that there will be a need for guidelines on messaging, but there should still be space for creative approaches.

There also remains a need for a parallel mechanism to represent the concerns of the CSO sector concerned with communications in this sphere by whatever means, as well as finding a way to take into account the interests of the mass media and private sector service providers. It should also be possible for some actual pilot programming to begin during 2015, drawing on the findings of the Public Perceptions Survey, and utilizing the PLA Communications Strategy as a source of guidance.⁵²

C6.19: ***It is recommended that:***

⁵¹See: End-of-Project Evaluation JHRA 1, September 2012, pp.26-27.

⁵² It is understood that the JHRA Component 3 Manager has substantial experience in setting up civil society mechanisms of the kind described. It is hoped that he will have the opportunity to put his experience and expertise to use.

(i) UNDP and UNAMA enter into dialogue with MOJ with the purpose of encouraging a restructuring of the Public legal Awareness Unit, along with corresponding adjustments to human resource plans and regulations, leading to the recruitment of specialist staff to enable the PLAU to perform effectively the role assigned to it.

(ii) JHRA Takes steps to address the need for a mechanism where relevant CSOs can meet, discuss matters of concern, and develop a common approach in dealing with issues regarding relations with government and local communities and PLA programming. Such deliberations may also deal with practical questions of contracting, finance and budgeting and scheduling. The new body could also liaise with the CSO representatives on the PLA Coordination Committee.

(iii) A plan is developed by Component 3 managers, in consultation with the PLA Coordination committee and CSOs, for pilot programming targeted at local communities to take place in one or more of the four provinces which were the subject for the PLA Perceptions Study. A schedule should be developed to facilitate work on the programming and dissemination, along with monitoring of effectiveness, to take place during 2015.

3D. Broader Issues: Delivery, Capacity Development, Gender Equality, Results and Future Planning

C7.1: Delivery:

Concerns have been raised by donors concerning slow delivery. Difficulties in discussion of this issue have been compounded by the problems of uneven and, at times, inaccurate financial information. Further, delays in processing payments and in updating financial information may yield a picture of delivery which is out-of-date and which understates actual performance. It is hoped that these matters are addressed as part of the effort to renew the project's management and operations, discussed in Section B, above, where a number of recommendations relevant to this topic are also presented.

C7.2: On the basis of information available to the Evaluators, the following factors would seem to account for delays in delivery:

- Slow processing of financial approvals and payments (Project Office and Country Office, including ROL Unit);
- Understaffing and, despite strong leadership in Human Resources, holdups in recruitment processes at Country office, at times, with unwarranted and inappropriate interference in the short-listing and selection of candidates, and in nomination of members for recruitment committees;
- When errors are made in the Project Office in the paperwork accompanying the submission of financial packages to Country Office for approval and processing, a very

long turnaround time before the Project Office is advised of the mistakes made and the need to fix the problem and re-submit;

- Poor overall coordination and uneven working relations with Country Office. This matter has been discussed earlier in the report. In addition, there is a UNDP-wide problem caused by unwillingness to delegate authorities for decisions and approvals to Project Managers/CTAs, who are relatively senior in terms of the ranking of their positions in the UNDP hierarchy, and who have wide professional and managerial experience. This creates extra layers of bureaucracy and additional steps in approval processes;
- General problems stemming from “the management crisis”, discussed above;
- A scattered project, and a broad span of control for the CTA, as well as for some component managers;
- Uneven performance by JHRA Managers in taking a pro-active position in ensuring rapid follow-up (or as rapid as possible) to completed activities, and addressing bottlenecks in implementation of plans and/or completion of paperwork by partner organizations. All managers work hard, but there are questions about priority-setting. At times, there are awkward gaps and delays in project activity in key areas. This matter should be addressed by the reforms in management and work planning proposed in Section B, above.
- Structural inflexibility in utilization of donor funds;

C7.3: It is understood that steps are being taken to address the delivery issue, as set out in a memorandum prepared by the CTA in August 2014. Among the steps being taken is the development of additional partnerships: with UNAMA ROL Unit, UNW, LOTFA and ASGP (Sub-National Governance Project) to support more rapid implementation. In addition, the changes in management and organization, captured in recommendations put forward in this report and the Management Review, should improve efficiency and effectiveness. Further, a broad-based restructuring of Country Office is underway, led by the new Country Director, and this is expected to make a difference over time. Consequently, no additional recommendations are presented concerning delivery.

C7.4: ***Capacity Development and Gender Equality***: Considerable attention has been given throughout the report to capacity development. In this short section, the focus will be on recommendations that deal with all components and activities.

Capacity Development

(i) ***It is recommended that***: In future work, and particularly JHRA 3, a systematic approach is adopted to apply to capacity development across components and activity sets;

(ii) ***It is also recommended that*** UNDP and JHRA retain the services of a senior international advisor with wide experience in capacity development and institutional strengthening, as well as knowledge of governance and ROL and justice, and solid experience with RBM, to contribute to project design for JHRA 3, and take part in consultations and dialogue concerning the shaping of the new project. The expert, or another with similar qualifications, should also be recruited once

the project is approved as an advisor to the project on a continuing, but intermittent basis, to provide support in developing capacity development plans and to provide assistance in monitoring and troubleshooting as may be necessary. If required, she/he might also provide workshops for project managers, UNDP staff and partners to ensure a common understanding of capacity development dimensions of the project.

Both in building the AWP for 2015 for JHRA 2, and in planning JHRA 3, project managers will be well-advised to avoid making commitments to “loose pieces” of training, which are not part of a broader capacity development plan, and which do not contribute to results. There are several examples of such training under all three project components. This should also facilitate a better focusing of resources on activities which can contribute to making a difference.

C7.5: *The National Technical Advisors Programme (NTA)*: The issue of NTA positions has been discussed in some detail in the report, both under management and in the discussion of support to the HRSU. Currently, JHRA is supporting 29 NTA positions, one of which is vacant. The positions are renewable on an annual basis. Some other projects provide financing for several hundred positions. The programme is not unique to UNDP, but is also supported by other UN agencies; UNICEF Afghanistan is currently funding 500 such positions.

C7.6: It has been confirmed that, under the direction of the Country Director, the entire programme, which is viewed as unsustainable, will be reviewed. In the meantime, it is urgent that JHRA reviews its own support for NTA positions, with a view to determining the extent to which each position is contributing to the objectives of the project and the UNDP Country Programme. It should also be noted that concerns about both the relevance and the cost of the NTA Programme have been raised by JHRA’s donors.

C7.7: *It is recommended that*, in consultation with the ROL Unit and senior management, JHRA undertake a rapid review of the value of the funds invested in the NTA Programme. The rationale for each NTA contract retained would be that the position contributes directly to the achievement of project objectives and supports the delivery of delivery of project activities. Appraisal on this basis should also take actual performance of the incumbent into account, and not merely the theoretical justification for the position.

***It is also recommended that*,** while some changes be considered for the 2015 AWP, efforts be made to avoid disruption to the work of HRSU and the Translation Board, with 2015 utilized as a transition year for the project’s engagement with those partners. In the case of HRSU, early discussions should be held with the Head of the Unit and MOJ senior management. However, given the recommendation for the completion of a comprehensive capacity assessment during 2015, it will be advisable to await the outcome of this exercise before considering any significant changes. For NTA positions in these units, unless financial exigencies force the hand of the project, it will be best to make major changes, if justified, with planning for JHRA 3.

Gender Equality

C7.8: JHRA 2 includes a number of major initiatives, including EVAW, State-Non State Justice and Legal Aid, where there is a strong focus on the priority of addressing the rights and needs of women and girls, who would also be a major priority for PLA activities. There is also a small activity in MOJ, where the project has provided support to efforts by female employees to improve their skills and self-confidence in a situation where they are clearly disadvantaged in seeking to improve their position and be taken seriously as candidates for promotion. Certainly, it appears to be the case that the project is gender-sensitive, but it is less clear that gender mainstreaming has been given the necessary level of attention in all project components and all sets of activities.

C7.9: It should not be seen as a serious criticism of the project, but ***it is recommended that*** for the future, in planning activities for the AWP for 2015 and for JHRA 3, a careful gender analysis be made as detailed plans are devised, to ensure that gender concerns and women's engagement are given full consideration. Given the project's intention to build closer links with UNW, GEP and, presumably the GE Unit of UNAMA, the project might seek the support of an experienced staff member from one of these organizations, or the UNDP GE Advisor, in reviewing and reflecting on initial plans.

C7.10: In building the results framework for JHRA 3, ***it is recommended that*** there should be a focus on integration of the gender dimension and in formulating gender-sensitive indicators and results.

Results and Future Planning

C8.1: JHRA is a somewhat scattered project, doing too many things of different kinds, often with insufficient human and financial resources to support core activities. This creates problems in building a coherent results framework, as well as in the achievement of results. Further, as is true with most UNDP projects, JHRA is driven by a focus on completing activities, and not on moving towards outcome-level results. Problems deriving from the necessity of importing Outcome Statements from the UNDP CPAP have been discussed above.

C8.2: Component 2 of the project does include a set of major initiatives, all of which are intended to contribute to enhanced access to justice for vulnerable groups, to improve levels of public trust in the justice system, and to strengthen justice system effectiveness at provincial and district levels. All are implemented in the same set of provinces, improving the possibilities for mutual support and reinforcement among the different initiatives. The Street Vendors' initiative under Component 3, while quite separate, also seeks to bring about enhanced access to justice for, and enhanced recognition of the rights of, a particular vulnerable group. The contributions of other parts of the project may also relate to the overall outcome objectives, but they do so indirectly.

C8.3: There is much to be done in restructuring the project results framework, and there are limitations in the case of many results statements and indicators selected, but given the fact that there is only one further year of programming prior to the end of JHRA 2, in the view of the Evaluators, it would be too disruptive to introduce major changes at this point. Improvements can be introduced simply by bringing to a halt the practice of putting project resources into dead-end, one-off training activities which do not lead anywhere, and by avoiding beginning new initiatives which do not support major elements of the project already underway.

C8.4: In the longer term, in preparations for JHRA 3, the deficiencies can be remedied. However, if the project is to be results-driven, after initial consultations, a framework for results built on a logic model, or theory of change, must be built first. This should be done through interaction with programming partners and donors. It will provide a basis for programming, which will then be designed to support the results framework, rather than the other way round.

C8.5: Using a results-based approach as a management tool will bring discipline to decision-making on priority-setting and resource allocation, and should produce a more focused and coherent project. Components and activities which do not contribute to results (see C8.6) must be carefully justified. However, UNDP, donors and Afghan programming partners must understand that decisions must be made on priorities, if there is to be a coherent and realizable results plan, and that not all good ideas can be supported. ***It is recommended that:*** for JHRA 3, UNDP and the JHRA design team commit themselves to a results-driven approach to planning. ***It is further recommended that,*** for the sake of continuity, and to build on what is now being accomplished, so far as possible, the design team should be drawn from members of the current project team, augmented by one or two external advisors, to ensure the team has both the corporate memory and the expertise it requires to build a results-based project.

C8.6: Also for the future, for JHRA 3, ***it is recommended that:***

- Given the CPAP Outcomes, The target for JHRA 3 continue to be on a measurable strengthening of access to justice and building public trust in the justice system, though with an Interim Outcome, between the Outcome statement and Outputs, focusing the plan for results on specific changes in target provinces.
- To assess change, a stratified random sample of districts should be drawn from within the target provinces. These selected districts will be the focus for a baseline study to be carried out in the first quarter of the project. On the foundation of the baseline, further surveys will be carried out in the same districts in the third quarter of Year 2 (Year 1 would be too early), and again at the end of the third quarter in Year 3. This will allow for measurement of change in both experience and perceptions of access and levels of trust during the life of the project.
- JHRA 3 should be built around the kinds of initiatives currently supported under Component 2. Public legal awareness will continue to receive support, since its

importance to access to justice and building public trust is widely recognized. However, all PLA programming will relate to core results, focused on measurable change in the experience and perceptions of citizens in the target provinces.

- As a secondary area of concentration, support to HRSU and the Translation Board will be rationalized, with continuing support to ensure sustainability of current capacities and some assistance to ongoing professional development. A careful assessment will be made with other stakeholders of whether or not to continue support to MOFA. Strategic support for AIHRC will continue, if a satisfactory agreement is arrived at with the Commission to ensure that the investment will be based on a strong partnership. Project assistance under this component of support to institutions which form the official national human rights framework will be integrated through a secondary results chain.
- If the project wishes to also take on strengthening the engagement of civil society with the official apparatus – as it has done under JHRA 2 in its support to consultations on strategic planning by the AIHRC – this might also be supported under this component. ***It is also recommended*** that all work in this area should be planned and implemented in close coordination with the UNAMA Human Rights and Rule of Law Units.
- Support to other elements of MOJ, the AGO and the Supreme Court at the centre should be supported where assistance, for example in policy or legislative development, is essential to facilitate the efforts of the project to bring about change at provincial and district level, or where additional support is required to facilitate strengthening of the government human rights system. One area where continuing support will probably be justified will be to assist the PLA Coordination Committee and any mechanism which may be established to represent the interests of civil society engaged in work in the same field.

3E. Impact

C9.1: Despite the limitations noted above, as well as concerns about sustainability, it may be observed that two of the project initiatives supported under Component 1, support to HRSU and to the Translation Board, have already achieved what might be termed *within-government results*. Both have received support under both JHRA 1 and JHRA 2 and have benefited from continuity of support, as well as from the firm leadership provided by the late Minister of Justice. Both are already contributing in their own ways to the greater effectiveness of government operations, and to access of the MOJ and the government more generally to international human rights and ROL standards and practice. The HRSU is contributing to building enhanced understanding and practice in government concerning human rights and to the insertion of human rights perspectives into the drafting of legislation.

C9.2: With EVAW and Legal Aid, there is the promise of programmes that make a genuine difference in terms of access to justice for vulnerable groups, and, with continuing support and

expert guidance, both are on track to achieve results during JHRA 3. The work on State/Non-State justice is essential and also has the promise of both supporting legal aid and EAW results, while also of achieving its own results in allowing for transfer of cases from the informal to the formal system, in injecting legal and human rights knowledge to the informal system, and in providing better options for citizens in local communities. This initiative is complex and likely to take longer to reach fruition, but a good foundation has been built, and at least interim results should be achieved in JHRA 3.

C9.3: At a more modest level, a solid result may be achieved by the Street Vendors' initiative within JHRA 2, with reforms in municipal codes and new approaches introduced at provincial and/or municipal level making a concrete difference to the lives of the street vendors, who will also benefit from better representation of their interests with the building up of the Street Vendors' Association in Kabul and Herat. For work on PLA (Component 3), and support to building the capacity of local justice officials (Component 2), the foundations are still being put in place. However, it is to be hoped that targeted PLA activities will contribute to measurable results in JHRA 3.

4. Lessons Learned and Recommendations

4A. Lessons Learned

Among lessons to be learned from the experience to date of JHRA 2 are the following:

- A broad-based consultative and responsive process to support project planning and design is effective in securing strong ownership for project objectives and programming approaches both among national partners and the members of the donor community.
- Responsiveness to stakeholder concerns in project planning is a positive feature of JHRA2's design process. Yet, there is also a need to ensure that firm priorities are set and to build support for the defining of a coherent and manageable project, where it is not possible to accommodate all priorities.
- Efforts to build cooperation with UNAMA and other UN agencies and UNDP projects are best initiated at the project design and planning stage.
- A key lesson is the need, as a means to mitigate risks associated with a possible change of leadership of partner organizations, to ensure that the project builds a broad set of working relationships with senior and middle management throughout the organization.
- If UNDP is committed to achieving concrete results through its projects, rather than merely completing activities, there is a fundamental need in the building of results frameworks to address the gap between CPAP Outcome Statements and project-level

outputs. The failure to allow for the insertion of an intermediate outcome between the two is one reason for the weak orientation to results of UNDP projects.

- Careful attention must be given in Project Documents to setting out full details of the structures and operational details of project governance, as well as to spelling out the authorities of the various bodies described, along with the key decisions which they will make on behalf of the project.
- Current reporting formats for annual, and particularly quarterly, project progress reports are not reader-friendly and do not meet the needs of stakeholders, particularly donors.
- UNDP will lose credibility in the eyes of donors and other stakeholders where it does not ensure that Country Office, corporate HQ in New York, and its projects are capable of effective financial management and of providing accurate and up-to-date financial information and reporting. *A similar observation was made in the Lessons Learned included in the End-of-Project Evaluation for JHRA 1. Apparently the lesson has not been learned, or acted upon.*
- The need for Senior Management to give greater attention to quality control of Project Documents and to provide more effective guidance on their composition.
- Smooth and effective operation of projects depends on the development and maintenance of well-informed, positive and mutually-supportive working relations between projects and Country Office Programme Units.
- Training, conducted outside the context of a comprehensive and grounded capacity development plan, focusing on the learning needs, circumstances and basic capabilities of those to be trained, as well as organizational priorities, is unlikely to have any impact for either the trainee or the organization.

4B. Recommendations (Summary List)

It is recommended that:

From Section A

RA1: - in planning JHRA 3, consultations by UNDP with UN partners have an agenda which includes a more collaborative approach to programme building, with detailed attention to the contributions of other partners, as well as a focus on the way JHRA can facilitate the work of others. It will be difficult for the project to undertake this work without corporate support: and,

RA2: - UNDP's senior management and the Programme Units take up the issue of setting closer and more effective cooperation among UN agencies as a practical priority, and provide guidelines on action steps to make cooperation a reality.

From Section B

RB1: - the project re-set its priorities to give greater attention to planning and preparation of Project Steering Committee (PSC) sessions, as well as follow-up.

RB2: - drawing on the basics set out in the Project Document, the CTA and project management team, in consultation with the Rule of Law Unit, develop more detailed and updated rules and procedures for both the PSC and TCC for review and approval at the next PSC meeting.

RB3: - Given the gaps in the description of the TORs, rules and procedures for the PSC and TCC in the Project Document for JHRA 2, *it is also recommended that*, for JHRA 3, careful attention be given to the inclusion of comprehensive and complete details on both Committees and other aspects of project governance in the Project Document.

RB4: - Regular meetings are held on a bi-monthly basis between the JHRA management team and the Donor Group - or at least four times per year - with a brief set of guidelines and a schedule to be agreed in advance between the donor group and the project management team.

RB5: - the CTA work with her team to develop a simple template for preparing monthly reports (not more than 2-3 pages) on activities and progress to be completed by all managers. These reports can be used for internal communications and sharing of information, while also serving, as may be required, as documentation for donor meetings and discussions with the ROL Unit and senior management.

RB6: - Current reporting formats, particularly for quarterly reports, are not reader-friendly, while also imposing an unnecessary burden on project management. It is understood that current Country Office guidelines present a barrier to producing leaner and more focused reports. Hence, *it is strongly recommended that*, with the support of senior management, the Rule of Law Unit take the lead in seeking to resolve this matter to the satisfaction of both donors and UNDP, while providing the basis for a less demanding format for project reporting.

RB7: - *it is further recommended that*, once a resolution to the apparent impasse is arrived at, the CTA and Rule of Law Unit together develop a template and guidelines for the preparation of quarterly reports, with the objective of reducing the burden on the project while satisfying the needs of donors.

RB8: - Annual Reports focus on progress as measured against indicators in achieving output and outcome results.

RB9: - UNDP Country Office and UNDP New York, as well as the project office, treat it as a matter of urgency to address the deficiencies in their financial management, information and reporting systems and staffing.

RB10: - the CTA and the project management team prepare a memorandum providing a detailed prose description and explanation of the budget as presented in the Annual Work Plan for 2015, and designed to accompany it.

RB11: - ***It is further recommended*** to UNDP that the Project Document for JHRA 3 includes a chapter which provides a full explanation and justification of the proposed budget.

RB12: - as a priority, UNDP senior management develops a coherent resource mobilization strategy, as a basis for supporting the efforts of projects to put themselves on a sound financial footing, and that project management teams are no longer expected “to go it alone.”

RB13: - UNDP Afghanistan reviews its procedures for determining the feasibility and advisability of developing new projects, and that their potential impact on the financial prospects of existing projects in the same sector be recognized as a major factor to be considered.

RB14: - the Annual Work Plan for 2015 be based on a realistic balance between estimated resources available and staffing required in delivering a programme and achieving results which are feasible.

RB15: - an experienced international Operations Manager be recruited on an 11-12 month extendable contract, beginning as early as possible in 2015.

RB16: - senior management confirms that the CTA will continue to carry the executive responsibility for managing the project, subject to the overall direction of the PSC.

RB17: - For JHRA 3 and other future projects, in order to avoid ambiguity in terminology, ***it is recommended that*** UNDP use the title “Project Manager/Chief Technical Advisor.” This has already been done with some other current projects.

RB18: - In order to strengthen the management process and to build the team dimension of the project, ***it is recommended that*** the CTA provide more space for other members of the management team to share the overall burden of management, providing more space for delegated decision-making.

RB19: - accompanying the AWP, each manager reporting to the CTA works with her on a set of priorities to be addressed and targets to be accomplished in the coming year. This process could be reproduced by each component manager for other members of professional staff.

RB20: - the CTA should work with component managers and other senior managers to revisit and re-institute the regular ***Management Meeting***. These meetings should be held every two

weeks, or at least monthly. Responsibility for participation in the meetings must be added to the TORs for all management positions, and thus become a priority for all members.

RB21: - Senior Management and Country Office make fresh efforts to secure improved facilities for JHRA 3.

From Section C

RC1: - For UNDP, UNAMA and the donor community, *it is recommended that* an assessment be made of whether continuing levels of support at a modest level will be necessary to facilitate further buy-in to the process of moving towards institutionalization by the major justice and ROL institutions of a regular system monitoring process, utilizing ROLIS.

RC2: - JHRA look carefully at what could be done to put in place a modest professional development plan for 2015 to support the Translation Board.

RC3: - Unless circumstances change, *It is recommended that* in 2015, JHRA terminate its capacity development effort with the *Taqnin*, while still providing support for professional seminars on new draft legislation, where required.

RC4: - For 2015, finances permitting, *it is recommended that* support for HRSU should continue as is, while, at the same time, focusing on assessing the feasibility for making such a transition in 2016 or beyond, and devising a prospective timetable to implement it.

RC5: - Given the continuing limitations to the institutional capacity of HRSU and the deficiencies in staffing arrangements, *it is also recommended that* a first step should be the completion, during the first half of 2015, of a detailed, externally-led capacity assessment exercise.

RC6: - Given the importance of the function of reporting on the international human rights conventions and responding to recommendations put forward by Treaty bodies, *it is recommended that* JHRA, UNDP and donors maintain support to MOFA, as planned, during 2015. *It is also recommended that* UNDP and UNAMA Human Rights Units together convene a meeting with the international community to consider how best to provide support in 2016 and beyond, given the barriers to building the capacity of the responsible Directorate. Funding permitting, continuing support through JHRA 3 remains a possibility, but there should be no illusions about the sustainability of such arrangements, or of the likelihood of achieving capacity development results.

RC7: - JHRA consult with AIBA, the Independent Legal Aid Board and LAD, with the objective of expanding the base of membership of the LAGF Committee, replacing the current “civil society” representative with a representative of a reputable truly independent civil society legal aid provider, while also adding a representative (with no close links to AIBA) of a leading non-

government women's organization, active on access to justice issues. Equivalent changes should be made to the Committees at provincial level.

RC8: - JHRA, UNDP senior management, the UNDP and UNAMA Rule of Law Units, along with JHRA's donors, maintain a watching brief on developments concerning the development, for MOJ, of a Road map and Regulatory Framework for Legal Aid, and that they be prepared to enter into dialogue with the Minister of Justice and the World Bank should there be a potential problem resulting from the regulatory framework which might threaten the investment made in the LAGF.

RC9: - JHRA reviews its priorities, with a view to ensuring that the investment of management time, technical support and financial resources, are sufficient to ensure that there is real progress with the State/Non-State cooperation and Coordination initiative during 2015 and beyond.

RC10: - Beyond the establishment of the Herat National Legal Training Centre, plans to support additional provincial centres be put on hold, at least on a temporary basis. ***It is further recommended that*** JHRA makes a careful assessment of the NLTC programme and of the feasibility of plans to expand the network beyond Kabul and Herat. In consultation with the law and justice sector clients, it will be helpful also to review experience with the effectiveness of programmes provided by the Kabul NLTC in meeting the needs of its clients. On the basis of information obtained through this review, a decision should be made on whether to include support for the expansion of the NLTC programme under JHRA 3, and, if so, whether adjustments should be made to the model first.

RC11: - JHRA reviews its practice in the utilization of training and develops a common approach to the planning of training initiatives viewed from a broader capacity development perspective.

RC12: - support for implementing the EVAW system during 2015 and JHRA 3 continues, and that adequate financial and technical support is provided to ensure that all necessary steps are taken to test, monitor and strengthen the system, and to work towards institutionalization. ***It is further recommended that*** in continuing its work, JHRA works closely and collaboratively with UNAMA, UNW, UNDP's GEP, UNFPA and UNODC.

RC13: - the TORs and reporting arrangements for the positions of Regional Coordinators be reviewed, with detailed work plans developed by project management, in consultation with the position-holders, and in support of the AWP for 2015. ***It is further recommended that,*** in support of their more effective integration into the project team, arrangements are made to enable the Coordinators to travel to Kabul on a quarterly basis to take part in meetings with the project management team.

RC14: - A good working relationship has been formed between JHRA and AIHRC, and ***it is recommended that*** cooperation should be continued into JHRA 3, funds permitting. Attention

should concentrate on ensuring that AIHRC focuses on enhancing the quality of its core business, where much work remains to be done, and on adoption of a results orientation in planning and implementing activities.

It is further recommended that, given the Commission's substantial core budget, efforts should be made to draw on these funds first in providing technical assistance, before committing additional JHRA financial support. ***It is also recommended that***, in order to reinforce UNDP's demonstration of its appreciation of the importance of an independent human rights commission, efforts be made to include AIHRC, wherever feasible, at least as a member of consultative bodies, in all relevant initiatives undertaken in JHRA 3.

RC15: - Civil society has a key role to play in engagement with the priority area on which JHRA is engaged under Component 2, as well as in cooperation with, and offering constructive criticism of, the country's human rights institutions, including AIHRC. The question to be answered is: should the project's support for civil society be folded in with these areas of engagement, as well as in PLA activities, *or* is there a case for a distinctive project component focusing on civil society? ***It is recommended that*** during 2015, the JHRA management team, in consultation with UNAMA and other stakeholders, consider how to answer this question and determine how best to work with civil society in JHRA 3.

RC16 - UNDP and UNAMA enter into dialogue with MOJ with the purpose of encouraging a restructuring of the Public legal Awareness Unit, along with corresponding adjustments to human resource plans and regulations, leading to the recruitment of specialist staff to enable the PLAU to perform effectively the role assigned to it.

RC17 - JHRA Takes steps to address the need for a mechanism where relevant CSOs can meet, discuss matters of concern, and develop a common approach in dealing with issues of concern regarding relations with government and local communities and PLA programming. Such deliberations may also deal with practical questions of contracting, finance and budgeting and scheduling. The new body would also liaise with the CSO representatives on the PLA Coordination Committee.

RC18: - A plan is developed by Component 3 managers, in consultation with the PLA Coordination committee and CSOs, for pilot programming targeted at local communities to take place in one or more of the four provinces which were the subject for the PLA Perceptions Study. A schedule should be developed to facilitate work on the programming and dissemination, along with monitoring of effectiveness, to take place during 2015.

From Section D

RD1: - In future work, and particularly JHRA 3, a systematic approach is adopted to apply to capacity development across components and activity sets.

It is also recommended that UNDP and JHRA retain the services of a senior international advisor with wide experience in capacity development and institutional strengthening, as well as knowledge of governance and ROL and justice, and solid experience with RBM, to contribute to project design for JHRA 3, and take part in consultations and dialogue concerning the shaping of the new project. The expert, or another with similar qualifications, should also be recruited once the project is approved as an advisor to the project on a continuing, but intermittent basis, to provide support in developing capacity development plans and to provide assistance in monitoring and troubleshooting, as required.

RD2: - in consultation with the ROL Unit and senior management, JHRA undertake a rapid review of the value of the funds invested in the NTA Programme. The rationale for each NTA contract retained would be that the position contributes directly to the achievement of project objectives and supports the delivery of delivery of project activities. Appraisal on this basis should also take into account the actual performance of the incumbent, and not merely the theoretical justification for the position.

It is also recommended that, while some changes be considered for the 2015 AWP, efforts be made to avoid disruption to the work of HRSU and the Translation Board, with 2015 utilized as a transition year for the project's engagement with those partners.

RD3: - for the future, in planning activities for the AWP for 2015 and for JHRA 3, a careful gender analysis be made as detailed plans are devised, to ensure that gender concerns and women's engagement are given full consideration. In building the results framework for JHRA 3, ***it is recommended that*** there should be a focus on integration of the gender dimension and in formulating gender-sensitive indicators and results.

RD4: - : for JHRA 3, UNDP and the JHRA design team commit themselves to a results-driven approach to planning. ***It is further recommended that***, for the sake of continuity, and to build on what is now being accomplished, so far as possible, the design team should be drawn from members of the current project team, augmented by one or two external advisors, to ensure that the team has both the corporate memory and the expertise it requires to build a results-based project.

RD5: - Also for the future, for JHRA 3, ***it is recommended that***:

- Given the CPAP Outcomes, The target for JHRA 3 continue to be on a measurable strengthening of access to justice and building public trust in the justice system, though with an Interim Outcome, between the Outcome statement and Outputs, focusing the plan for results on specific changes in target provinces.
- To assess change, a stratified random sample of districts should be drawn from within the target provinces. These selected districts will be the focus for a baseline study to be carried out in the first quarter of the project. On the foundation of the baseline, further surveys will be carried out in the same districts in the third quarter of Year 2, and again at

the end of the third quarter in Year 3. This will allow for measurement of change in both experience and perceptions of access and levels of trust during the life of the project.

- JHRA 3 should be built around the kinds of initiatives currently supported under Component 2. Public legal awareness will continue to receive support, since its importance to access to justice and building public trust is widely recognized. However, all PLA programming will relate to core results, focused on measurable change in the experience and perceptions of citizens in the target provinces.
- As a secondary area of concentration, support to HRSU and the Translation Board will be rationalized, with continuing support to ensure sustainability of current capacities and some assistance to ongoing professional development. A careful assessment will be made with other stakeholders of whether or not to continue support to MOFA. Strategic support for AIHRC will continue, if a satisfactory agreement is arrived at with the Commission to ensure that the investment will be based on a strong partnership built around the strengthening of core functions. Project assistance under this component of support to institutions which form the official national human rights framework will be integrated through a secondary results chain.
- If the project wishes to also take on strengthening the engagement of civil society with official structures, this might also be supported under this component. ***It is also recommended*** that all work in this area, concerning the national human rights apparatus should be both planned and implemented in close coordination with the UNAMA Human Rights and Rule of Law Units.
- Support to other elements of MOJ, the AGO and the Supreme Court, at the centre, should be supported where assistance, for example in policy or legislative development, is essential to facilitate the efforts of the project to bring about change at provincial and district level, or where additional support is required to facilitate strengthening of the government human rights system. One area where continuing support will probably be justified will be to assist the PLA Coordination Committee and any mechanism which may be established to represent the interests of civil society engaged in work in the same field.

APPENDICES

Appendix 1: List of Interviews and Meetings

Meetings were held in Kabul between August 26 and September 25. One interview with a member of the project management team, on professional assignment leave in Somalia, was conducted after the International Consultant's return to Canada.

MID TERM EVALUATION CALENDAR

DATE	TIME	MEETINGS
Thurs. 28/08/2014	8:00-10:00 11:00-12:00 13:30-14:00 14:00-14:30 14:30-15:00 16:00-17:00	JHRA Project office for introductions and project overview UNDP Programme Unit UNDP Renaud Meyer, Senior DCD (Programme) UNDP Iris Hauswirth – Oversight and Compliance UNDP Security Briefing UNDP Nuha Abdelagadir – SMSU
Fri. 29/08/2014	TBD	Doel Mukerjee, JHRA CTA and Phillip at GV
Sat 30/08/2014		Doel Mukerjee Claudia Elliot, EAW Consultant Michael Pedersen EU Human Rights advisor
Sun 31/08/2014		Ministry of Justice Meetings: 1. HE DM Mohammad Hashimi 2. Mr. Assadullah Wahdat, the General Director of Legal Aid Department 3. Mr. Abdul Mohaimin Mansoori, JHRA Coordinator 4. Mr. Abdul Wahid Hedayat, Head of HRSU Meeting with Mr. Ashraf Rasooli, the Legal Advisor to the Office of the President
Mon. 01/09/2014		AIHRC with Deputy Chairperson Mr. Mohammad Farid Hamidi MOJ: Meeting with RoLIS working group(Shah Wali Atayee from MOJ, Abdul Qadir Habib from Supreme Court, Khaibar Tagge from MOJ, Waziry from AGO, Sayed Bahlool from CDP/MOI and Noor Agha Shoaib from AIBA)

		<p>MOJ: Meet PPD staff (Mr. Khaibar Tagge and Mr. Hilaman).</p> <p>At GV: Marije Van Kempen, ROL Coordinator, UNDP ROL Unit</p>
Tuesday 02/09/2014		<p>At JHRA: Meeting with component 3 at JHRA(Mr. Akbar, Mr. Najibullah Yusufi and Mr. Abdul Rauf Samoon)</p> <p>-Ahmad Fahim Hakim, Ex Commissioner and Deputy chairperson of AIHRC and currently working as Consultant at JHRA on AIHRC strategic planning</p> <p>At UNOCA: UN Women at their office, Pamela Fatima Husain, Deputy Country Representative</p> <p>Hangama Anwari, Programme Manager, EVAW Pillar</p> <p>At GV: Mr. Henrik Lindroth CTA Afghanistan Integrity Initiative (AFII)</p>
Wed. 03/09/2014		<p>Meeting with Afghan Independent Bar Association (AIBA), including the Legal Aid Grant Facility Committee. Mr. Rohullah Qarizada, President of AIBA; Mr. Nasir Ahmad Naderi, AIBA Executive Director; Mr. Ahmad Rafi Naderi, Regional Manager of AIBA Herat Office</p> <p>Also will be meeting CSO representative of Da Qanoon Ghustanky, Mr. Najibullah Azizi (member of ILAB)</p> <p>Alex Lowden – UNAMA Human Rights Unit at Compound A</p> <p>At JHRA: Malek Sitez, Senior Advisor, Afghanistan, Danish Institute for Human Rights</p>
Thurs. 04/09/2014		<p>At GV: Dominic d’ Angelo, Monitoring and Evaluation Consultant to JHRA (ROLIS)</p> <p>At UNDP: Workshop with UN Agencies on ROLIS. This meeting was co-chaired by Renaud Meyer, DCD, & Michael Hartmann, Head, Rule of Law Unit, UNAMA</p> <p>At UNDP: Meeting with Michael Hartmann</p> <p>At JHRA: Meet Civil Society Groups :</p> <p>1-Legal and Cultural Service for Afghan women and Children (LCSAWC)-</p>

		<p>Fahima.</p> <p>2-Afghanistan Center for Training & Development (ACTD)- Dr. Abdul Rahman Shahab</p> <p>3-Afghan Amputee Bicyclist Rehabilitation Association (AABRAR)- Dr. Abdul Baseer</p> <p>4-Equality for Peace and Democracy (EPD)- Hossai Wardak).</p>
Fri. 05/09/2014		At GV: Doel Mukerjee, CTA
Sat. 06/09/2014		<p>Prof Shah Wali Ataye, Director of Policy, Planning, and Foreign affairs of Ministry of Justice.</p> <p>Meeting with SDC</p> <p><i>Both Meetings postponed by interviewees</i></p> <p>At Italian Embassy: Meeting with Italian Development Cooperation, Claudia Gioffre, Justice Programme Coordinator</p>
Sun. 07/09/2014		<p>At World Bank Office: Atiq Ahmadzai, Public Sector Reform Consultant</p> <p>At JHRA: Meeting with Team for Component 2 of JHRA (Najaf Rajai Legal Aid Officer, Augustine Bahemuka, Access to Justice Specialist and Attia Ali, Admin Assistant/Translator).</p> <p>At LOTFA (Ministry of Interior): Anthony Cameron, Programme Manager, Pillar 2, Ministerial Reform</p>
Mon 08/09/2014		<p>At: MOJ, HRSU: Head, Hedayat Mohammadi</p> <p>Meeting with Section heads of of HRSU</p> <p>At MOJ: Head of Translation Board, Ms. Nazia Shuja.</p> <p>Staff of translation Board: Abdul Aziz Latify, Nasim Mahboob, Nazrullah Bayan, Somia Jalal, and Najibullah Zahid.</p> <p>At UNOCA: Julie Van Dassen, Capacity Development Specialist, JHRA</p>
Tue 09/09/2014		<p>All Meetings at GV (Security Alert)</p> <p>Doel Mukerjee, CTA</p>

		Yuxue Xue, Senoir DCD (Programme) Daniel Ladouceur – LOTFA, Manager, Pillar 3
Wed 10/09/2014		At JHRA: Meeting with JHRA Operations Team: Naseem Pardis Finance Officer, Asil Stanikzai IT Officer, Mohammad Khalid Alimkhail Procurement Officer, and Mursal Samadi HR Associate. Meeting with Component 1 Team: Mohammad Zubair Qani Policy, Legislation, and Human Right Coordinator, Tarek Mahmood, legal researcher – RoLIS, Julie Vandassen (HRSU),and Hamdullah Fayeq. At UNDP: Marta Ruedas, Country Director, UNDP SDC – Matthias Bachmann, Representative, Swiss Agency for Development and Cooperation (SDC)
Thur 11/09/2014		At UNDP: Sagipa Djusaeva, Gender Specialist, Cross Practice Unit; Krishnaveny Raju, Human Resources (HR) Manager Abdul Rahman Azizi, Senior Deputy Country Director, Operations) At Netherlands Embassy: Joris Geeven ,First Secretary At Embassy of Denmark: Nazar Ahmad Shah, Senior Programme Officer (Governance) Kiye Mwakawago, Operations Manager, Afghanistan Peace and Resettlement Project (APRP)
Fri 12/09/2014		
Sat 13/09/2014		TCC meeting in Kabul & Meeting with Mr. Hoshmand Ulomi, Deputy Mayor of Kabul Municipality (<i>National Consultant</i>)
Sun 14/09/2014		At JHRA: Meeting with Government and AIHRC Departmental Communications Officers (Hedayatullah Hafiz, Deputy spokesperson from MOI, Iftekhari Spokesperson from Ministry of MOLSAMD, Dr. Rafiullah Bidar Spokesperson from AIHRC and Karimullah reporter from TOLO TV) At Office of the Attorney General: Mr. Abdul Wakil Aminy, Deputy, Attorney General

		At UNDP: Hedayat Mohammadi, Acting Officer in Charge, ROL Unit At GV: Chris Carter, Project manager/CTA, Afghanistan Sub-National Governance Project (ASGP)
Mon. 15/09/2014		At MOJ: Meeting with Prof Shah Wali Ataye, Director of Policy, Planning, and Foreign affairs of Ministry of Justice. Meeting with NDS through HRSU at HRSU Cancelled by NDS MOJ: Palwasha, National Consultant, meeting with: Ms. Nilofar head of Gender Unit of MoJ with Attia from JHRA to provide support: Ms. Uranus, English teacher recruited by JHRA for MOJ; Ms. Hillai, Computer teacher recruited by JHRA for MOJ; Three students from Computer class from MOJ female staff; Three students from English language class from MOJ staff International Consultant: At GV: Chris Carter, Project manager/CTA, Afghanistan Sub-National Governance Project (ASGP)
Tue. 16/09/2014		At JHRA: Mr. Assadullah Wahdat Director General of Legal Aid Department of MOJ at JHRA, and Mr. Azimi head of Public Legal Awareness Unit (PLAU), MOJ At HRSU: Mr. Abdul Mohaimin Mansoori At MOJ: Mr. Ghanizada Director General of Legislative Drafting Department (Taqnin) Ministry of Justice.
Wed 17/09/2014		Cancelled by MOFA MOFA in the afternoon, Khojasta Fana Ibrahimkhail and Frozan Nawabi, Director and Deputy Director of Human Rights and International Women's Affairs, MOFA.
Thurs 18/09/2014		At JHRA: Meeting with LAPIS – on public perception survey; media assessment; MoJ communications strategy Khalil Rahman, ex-National Project Manager (NPM) Gary Collins at UNODC Cancelled by UNODC, Security Alert

Fri. 19/09/2014		
Sat 20/09/2014		Preliminary Data Review and Report Writing
Sun. 21/09/2014		
Mon 22/09/2014		Meeting with Yuxue Xue, DCD
Tues. 23/09/2014		At Compound B: Presentation of Preliminary Report and Discussion of report with donors
Wed. 24/09/2014		At Compound B: Presentation of Preliminary Report and Discussion of report with national stakeholders Follow-up Discussion with Zubair Qani Meeting with UNDP Country Director, Marta Ruedas
Thus. 25/09/2014		At GV: Augustine Bahemuka, JHRA At GV: Julie Van Dassen, JHRA
Fri 26/09/2014		Phillip departs Kabul
Sat 11/11/2014		Luca Bruccheri, JHRA, Component 3 Manager and Public participation Specialist (on assignment in Somalia): Skype Interview conducted from Toronto

Appendix 2: List of Documents Consulted

1. JHRA Project Documents

- JHRA Project Document, 1 January 2013 - 31 December 2015;
- JHRA Annual Report, 2013;
- JHRA Quarterly Reports, Quarters 1, 2 and 3, 2013 and 1st Quarter 2014;
- JHRA Annual Work Plans 2013 and 2014;
- Project Steering Committee Reports, 26 November, 2013 and 4 March 2014;
- JHRA Update Note to Donors on Actions Taken in Response to Recommendations of the Mid-Term Evaluation, 15 March, 2012.

1A Selected Component-Level Documents

Component One:

- Assessment of Capacity Building of the General Directorate of the Institute for Legislative Drafting and Legal Research (*Taqnin*), October, 2013;
- Reports on Taqnin Training Activities;

HRSU Documents:

- Human Rights Support Unit Regulation;
- Strategic Plan for the Human Rights Support Unit, 2013-2016;
- Reports on training workshops and other activities;

Translation Board:

- Activity Reports and Lists of Documents translated, 2013 and 2014;

Ministry of foreign Affairs

- Directorate of Human Rights and Women's International Affairs, Ministry of Foreign Affairs, Draft Capacity Assessment Report, April-May, 2014;

Rule of Law Indicators Study (ROLIS)

- Summary Documents; Indicator Lists; Working Group Meeting Reports.

Component Two:

Legal Aid Grant Facility

- Draft Amended Legal Aid Regulation;
- Executive Summary of the Legal Aid Grant procedure Facility Workshop;

- Legal Commentary and Proposed Legislation for the Establishment of a Credible and Effective Legal Aid System;
- Various meeting and workshop reports;

Elimination of Violence against Women (EVAW)

- A Report on the Critical Areas, Functions, Gaps and the Ongoing Work of the EVAW Units in Kabul, Mazar-el-Sharif, Herat and Jalalabad, Afghanistan, by Claudia Elliott, August 2013;
- UNDP/JHRA EVAW Project Phase 2: Mediation/Settlement Negotiation Curriculum for Inclusion in NLTC, by Claudia Elliott and Zakia Soleiman, July 2014;
- UNDP/JHRA Phase3, Establishing a Pilot EVAW Court, by Claudia Elliott and Zakia Soleiman, July 2014;
- UNDP/JHRA EVAW Project Phase 2: Drafting Indictments on EVAW Law, by Claudia Elliott and Zakia Soleiman, August 2014;
- UNDP/JHRA EVAW Project Phase 2: Standard Operating Procedure, by Claudia Elliott and Zakia Soleiman, August 2014;

Public Legal Awareness

- Report on Meeting between Ministry of Justice Public Legal Awareness unit (PLAU) and Relevant NGOs working on Rule of Law, Kabul, 5 February, 2014;
- Justice and Human Rights Assessment, Balkh, Herat, Kabul and Nangarhar (Public Perceptions Survey Report), Ministry of Justice, December 2013;
- Provision of Strategic Communication and Media Monitoring Services on Justice Issues in Afghanistan, Workshop 1 Summary – Phases 2, Lapis and ATR for UNDP, 26 December, 2013;
- PLAU Communication Strategy, June 2014;

Social and Economic Rights

- UNDP, *Towards Economic Recovery and Sustainable Development: Approaching 2014 Transition and Beyond: options for UNDP Afghanistan to Accelerate MDGs through Legal Empowerment of the Poor, Draft Strategy*, not dated;
- UNDP, Report on National Discussion on Labour Rights, the Informal Economy and Legal Protection for Street Vendors in Afghanistan, Kabul, 13-14 July, 2013;

NGO Training

- Reports on: Human Rights Based Approach for NGOs and UNDP Staff, Kabul, March 2014; Social Accountability Training for Afghan NGOs working in Justice and Human Rights Sector, Kabul, 3-4 June, 2014; and, Community-Based Dispute Resolution (CBDR), Nangarhar, 17 and 19, June, 2014;

Afghanistan Independent Human Rights Commission (AIHRC)

- Support to AIHRC on the Development of a Capacity Development Action Plan, by Aparna Basnyat, March 2013;
- Strategic Plan 1393-1397 (2014-2018), by Ahmad Fahim Hakim, May 2014;

State/Non-State Justice and Community-Based Dispute Resolution (CBDR)

- Reports on Herat and Mazar CBDR Workshops, July and August 2013;
- *For Reference*: Draft Law on Dispute Resolution Shuras and Jirgas, 4 October, 2010;
- *For Reference*: Draft National policy on Relations between the Formal Justice System and Dispute Resolution Councils, 10 November, 2009;
- UNDP/JHRA, Assessment to Define Boundaries within which Traditional Dispute Resolution Mechanisms can be Utilized for Civil Matters, Draft Field Report, by Dr. Ali Wardak, August 2014.

2. Other Project-Related Documents

Afghanistan National Development Strategy, National Justice Sector Strategy, 2008

National Priority Program 5: Afghanistan's Law and Justice for All Program, Revised, 23 June 2013.

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

Management Review of JHRA, Confidential Draft Report, September 25, 2014

Independent End-of-Project Evaluation of JHRA 1, by Phillip Rawkins and Muhammad Arif Kamawi, September 2012.

Mid-Term Evaluation of JHRA, Summary of Findings and Recommendations, prepared by Fainula Rodrigues and Hangama Anwari, 24 July, 2011

United Nations (Department of Peacekeeping Operations, DPKO, and Office of the High Commissioner for Human Rights), *Rule of Law Indicators: Implementation Guide and Project Tools*, First Edition, 2011.

United Nations Afghanistan: United Nations Development Framework in Support of the Afghanistan National Development Strategy, 2010-2014.

UNDP Afghanistan Country Action Plan, CPAP 2011-2013.

UNDP Draft Country Programme Document for Afghanistan (2015-2019).

UNDP Afghanistan Strategic Plan 2014-2017: Integrated Results and Resources Framework, September 2013.

UNDP Afghanistan: Circular from UNDP Country Office Senior Management on “Implementation of the NTA Policy”, March 30, 2013.

UNDP Afghanistan, Rule of Law Strategy, 2013.

3. Reference Documents Consulted

Afghanistan Research and Evaluation Unit (AREU), *Afghanistan’s Constitution Ten Years On: What Are the Issues?* Issues Paper, prepared by Mohammad Hashim Komali, August 2014.

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, *Afghanistan’s Insurgency after the Transition*, Asia Report #256, May 12, 2014;

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.

World Bank, *Emergency Project Paper on a Proposed ARTF Grant in the Amount of US\$85.5 million, to the Islamic Republic of Afghanistan for a Justice Service Delivery Project (JSDP)*, May 31, 2012.

World Bank, *UNDP National Legal Aid Grant Facility (LAGF) Workshop: Comments on LAGF Procedures by World Bank Team (Luba Beardsley and Federico Sersale)*, October 2013.