

GOVERNANCE CONTENTS

Key Issues and Events	119
U.S. Reconstruction Funding for Governance	121
Mutual Accountability Updates	121
U.S. Assistance to the Afghan Government Budget	122
National Governance	128
Subnational Governance	132
Reconciliation and Reintegration	133
Rule of Law and Anticorruption	135
Human Rights	144
Gender	145

GOVERNANCE

KEY ISSUES AND EVENTS

This quarter, the Afghan national government faced tensions within the executive branch over the actions of First Vice President Abdul Rashid Dostum and conflict between the executive and parliament over the dismissal of seven government ministers.

In October, First Vice President Dostum publicly accused President Ashraf Ghani and Chief Executive Abdullah Abdullah of nepotism and ethnic bias in government appointments. Both Ghani's and Abdullah's offices condemned Dostum's statement.³⁸⁶

On November 24, Dostum reportedly kidnapped a political rival, a former governor of Jowzjan Province. Once released, the victim accused Dostum on national television of ordering him to be beaten and raped with the muzzle of a rifle while in Dostum's private custody.³⁸⁷ The U.S. Embassy and the European Union called for an investigation.³⁸⁸ On December 17, the Afghan attorney general's office announced it was investigating the matter.³⁸⁹ As of December 22, Dostum refused an attorney-general summons. Claiming the first vice president has the same legal standing as the president, Dostum's chief of staff labeled the summons illegal, arguing that allegations of crimes against the president can only be made by a two-thirds vote by parliament.³⁹⁰ Chief Executive Abdullah's office called the handling of the Dostum investigation a significant test for the unity government.³⁹¹

Between November 12 and 15, the lower house of parliament passed no-confidence votes against seven of 16 ministers after they were summoned to explain why their ministries executed less than 70% of their development budgets (projects and investments are funded from a ministry's development budget). Four of the seven ministers sanctioned by parliament were Ghani nominees, while the remaining three had been nominated by Abdullah. Parliament considers those who received votes of no confidence dismissed. The Minister of Foreign Affairs, an Abdullah nominee and head of a major political party that backed Abdullah in the presidential election, was among those who received a vote of no confidence; however, the Ministry of Foreign Affairs insists it spent 73% of its development budget.³⁹²

In December, the Asia Foundation released their 2016 *Survey of the Afghan People*. The survey found that in 2016, 29.3% of respondents nationwide say their country is moving in the right direction, down from 36.7% in 2015. This represents the lowest level of optimism recorded since the survey began in 2004. Of the 65.9% of Afghans who say their country is moving in the wrong direction, the most frequently cited reason is insecurity (48.8%), followed by unemployment (27.5%), corruption (14.6%), a bad economy (10.4%), and bad government (8.7%).³⁹³

Despite government efforts to curb corruption, 89.2% of Afghans say that corruption is a problem in their daily lives, with 61% saying it is a major problem and 28.2% saying it is a minor problem. Among Afghans who had contact with police within the past year, 48% say they paid a bribe, down from 53% in 2015. Instances of respondents paying bribes to officials in the municipality/district office (59%), judiciary and courts (60%), customs office (55%), provincial governor's office (55%), state electricity supply (50%), public health services (46%), and the Afghan National Army (38%); when applying for a job (56%); and for admissions to school/university (39%) all decreased compared to the 2015 responses, but were higher than the results from 2014.³⁹⁴

Respondents who reported frequent bribe paying did not always rate the offending government authority poorly. For example, of the 604 respondents (representing 19% of those asked the question) who reported that in their interactions with municipal officials they had to pay a bribe all or most of the time, 43% rated the municipal officials as either very good or somewhat good at their job, while 44.4% rated municipal officials as either very bad or somewhat bad. Similarly, of the 1,631 respondents (representing 12.9% of those surveyed) who reported that in their interactions with Afghan police they had to pay a bribe all or most of the time, 75.5% strongly or somewhat agreed that the police are honest and fair, while only 24.3% strongly or somewhat disagreed.³⁹⁵

Also in December, Integrity Watch Afghanistan (IWA) issued the results of their biennial national corruption survey, funded in part by SIGAR. The majority of those surveyed (71%) felt corruption has worsened in the past two years. More than 26% of those interviewed reported having paid a bribe in the previous 12 months, an increase from the 21% who reported having paid a bribe in 2014. Extrapolating from the survey findings, IWA estimated that Afghans paid \$2.9 billion in bribes in 2016, an increase from the \$1.9 billion estimate for 2014. While a majority (51%) of IWA respondents nationwide agreed with the statement that corruption facilitates the expansion of the Taliban, majorities in the south (63%) and northeast (53%) disagreed with this statement, an interesting result given the strength of the insurgency in these regions.³⁹⁶

U.S. RECONSTRUCTION FUNDING FOR GOVERNANCE

As of December 31, 2016, the United States had provided nearly \$32.8 billion to support governance and economic development in Afghanistan. Most of this funding, more than \$19.4 billion, was appropriated to the Economic Support Fund (ESF) administered by the State Department (State) and the U.S. Agency for International Development (USAID).

MUTUAL ACCOUNTABILITY UPDATES

At the Senior Officials Meeting (SOM) in September 2015, the international community and the Afghan government agreed to the Self-Reliance through Mutual Accountability Framework (SMAF) to guide their activities at least to the end of the present government's term.³⁹⁷

The SMAF covers six areas: (1) improving security and political stability (with three associated indicators); (2) anticorruption, governance, rule of law, and human rights (14 indicators); (3) restoring fiscal sustainability and integrity of public finance and commercial banking (nine indicators); (4) reforming development planning and management, and ensuring citizens' development rights (three indicators); (5) private-sector development and inclusive growth and development (four indicators); and (6) development partnerships and aid effectiveness (eight indicators).³⁹⁸ At the October 2016 Brussels Conference, international donors and the Afghan government also agreed to 24 new "SMART" (Specific, Measurable, Achievable, Realistic, and Time-bound) deliverables for 2017 and 2018.³⁹⁹

According to USAID, there were no notable updates for SMAF deliverable progress this quarter.⁴⁰⁰

Electoral Reform Challenges

Overhauling the electoral process was a central part of the power-sharing deal brokered by the United States between President Ghani and his former election rival, now Chief Executive Abdullah, after the troubled 2014 presidential elections. The September 2014 agreement that led to forming the national-unity government called for immediate establishment of a special commission for election reform. The intent was to implement reform before the 2015 parliamentary elections and to distribute electronic identity cards to all Afghan citizens as quickly as possible.⁴⁰¹

At the October Brussels Conference, the Afghan government agreed to take concrete steps toward electoral reform and preparations in 2017.⁴⁰²

In November, the chief justice of the Afghan Supreme Court swore in a new slate of election commissioners including seven Independent Election Commission (IEC) commissioners—down from the previous nine commissioners—and five Independent Election Complaints Commission (IECC) commissioners. According to State, replacing the discredited incumbent commissioners is seen as the first step toward

electoral reform. The new election commissioners will be responsible for determining election schedules, identifying and implementing necessary reforms, and overseeing the hiring processes for hundreds of vacant electoral commission positions.⁴⁰³

On December 5, the IEC held its first working meeting following the new commissioners' short meeting to select their administrative board members on November 27. In a press statement, the IEC said it discussed expanding the number of polling centers, preventing the use of personal property as polling sites, ensuring equal voting rights, and other election-related issues.⁴⁰⁴ In late December, an IEC commissioner told local media that the IEC had budget difficulties while donors continue to suspend their funding.⁴⁰⁵ State reported last quarter that donors are waiting for a realistic elections timeline and Afghan government budget before making any determinations regarding election support.⁴⁰⁶

U.S. ASSISTANCE TO THE AFGHAN GOVERNMENT BUDGET

Summary of Assistance Agreements

At the Brussels Conference in October 2016, the United States and other international participants confirmed their intention to provide \$15.2 billion between 2017 and 2020 in support of Afghanistan's development priorities.⁴⁰⁷ Although the United States did not commit to a specific amount, then-Secretary of State John Kerry promised to work with Congress to provide civilian assistance at or near the 2016 levels through 2020.⁴⁰⁸

At the 2010 Kabul Conference, the United States and other international donors supported an increase to 50% the proportion of civilian development aid delivered **on-budget** through the Afghan government to improve governance, cut costs, and align development efforts with Afghan priorities.⁴⁰⁹ Donors, including the United States, reaffirmed this commitment at the July 2012 Tokyo Conference and again at both the December 2014 London Conference and the September 2015 SOM.⁴¹⁰ As of December 2016, USAID had not yet achieved the 50% on-budget target.⁴¹¹ At the October 2016 Brussels Conference, the United States and other donors committed to channel a "higher share" of their development assistance via on-budget modalities in 2017 and 2018, but did not commit to a particular percentage of their overall assistance.⁴¹² As shown in Table 3.14, USAID expected to spend \$842 million on direct bilateral-assistance programs that were active during the quarter. It also expects to contribute \$2.7 billion to the Afghanistan Reconstruction Trust Fund (ARTF) through 2020, in addition to \$1.37 billion disbursed under the previous grant agreement between USAID and the World Bank. USAID has disbursed \$113 million to the Afghanistan Infrastructure Trust Fund (AITF).⁴¹³

On-budget assistance: encompasses donor funds that are aligned with Afghan government plans, included in Afghan government budget documents, and included in the budget approved by the parliament and managed by the Afghan treasury system. On-budget assistance is primarily delivered either through direct bilateral agreements between the donor and Afghan government entities, or through multidonor trust funds.

Off-budget assistance: encompasses donor funds that are excluded from the Afghan national budget and not managed through Afghan government systems.

Source: SIGAR, *Quarterly Report to the United States Congress*, 7/30/2014, p. 130; Ministry of Finance, "Aid Management Policy for Transition and Beyond," 12/10/2012, p. 8; State, response to SIGAR vetting, 1/14/2016.

GOVERNANCE

TABLE 3.14

USAID ON-BUDGET PROGRAMS						
Project/Trust Fund Title	Afghan Government On-Budget Partner	Special Bank Account?	Start Date	End Date	Total Estimated Cost (\$)	Cumulative Disbursements, as of 12/31/2016 (\$)
Bilateral Government-to-Government Projects						
Power Transmission Expansion and Connectivity Project (PTEC)	Da Afghanistan Breshna Sherkat (DABS)	Yes	1/1/2013	12/31/2018	\$725,000,000	\$124,878,220
Kajaki Unit 2 Project (Installation of Turbine Generator Unit 2 at Kajaki Dam Hydropower Plant)	DABS	Yes	4/22/2013	12/31/2016	75,000,000	56,714,535
Afghanistan Workforce Development Project (AWDP)	Ministry of Education (MOE)	Yes	9/18/2013	12/31/2016	11,500,000	4,832,843
Basic Education, Learning, and Training (BELT) - Textbooks Printing and Distribution	MOE	Yes	11/16/2011	12/31/2016	26,996,813	24,970,742
E-Government Resource Center (EGRC)	Ministry of Communications and Information Technology (MOCIT)	Yes	8/28/2013	12/1/2017	3,900,000	1,205,000
Multi-Donor Trust Funds						
Afghanistan Reconstruction Trust Fund (ARTF) (current award)*	Multiple	No	3/31/2012	3/31/2017	2,700,000,000	1,470,169,080
Afghanistan Infrastructure Trust Fund (AITF)	Multiple	No	3/7/2013	3/6/2018	153,670,184	113,000,000

Note: * USAID had a previous award to the ARTF that concluded in March 2012 and totaled \$1,371,991,195 in disbursements. Cumulative disbursements from the two ARTF awards is currently \$2,842,160,275.

Source: USAID, response to SIGAR data calls, 1/17/2017, and 1/18/2017.

The U.S. government announced in March 2015 that it intended to seek funding to support the Afghan National Defense and Security Forces (ANDSF), including the army and police, at the level of 352,000 personnel through at least 2017.⁴¹⁴ The Department of Defense (DOD) was authorized \$4.26 billion to support the ANDSF for fiscal year (FY) 2017 (though the appropriation was not finalized before this report went to press).⁴¹⁵

At the 2012 Chicago Conference, the United States and its allies affirmed commitments to support the Afghan security forces with an estimated annual budget of \$4.1 billion, to be reviewed regularly against the changing security environment.⁴¹⁶ At the September 2014 Wales Summit, NATO allies and partners reaffirmed their commitment to financial sustainment of the ANDSF through the end of 2017. The international community pledged an additional amount of almost €1 billion, or approximately \$1.29 billion, annually to sustain the ANDSF for 2015 through the end of 2017.⁴¹⁷

In July 2016, NATO allies and partners met in Warsaw and committed to extend the financial commitments made at the 2012 NATO Summit in Chicago. Some 30 nations renewed pledges to sustain the Afghan security forces through 2020 at or near current levels. The international community has so far pledged more than \$800 million annually for 2018–2020. President Obama also pledged that he would recommend to his successor that the



USAID Mission Director Herbie Smith and the Afghan Minister of Finance discuss continued U.S. civilian assistance to Afghanistan. (USAID photo)

United States continue to seek funding for the ANDSF at or near current levels through 2020.⁴¹⁸

As of mid-January, DOD had not yet finalized the agreements governing their Afghan FY 1396 (FY 1396 runs from December 22, 2016, to December 21, 2017) on-budget contributions for police salaries to the Ministry of Interior (MOI) through the United Nations Development Programme's (UNDP) Law and Order Trust Fund for Afghanistan (LOTFA), nor their direct on-budget contributions to the Ministry of Defense (MOD) or MOI.⁴¹⁹

SIGAR AUDIT

SIGAR has an ongoing audit of the ARTF. In July 2011, SIGAR found that the World Bank and the Afghan government had established mechanisms to monitor and account for ARTF contributions, but that several limitations and challenges should be addressed. This new audit will assess the extent to which the World Bank and the Afghan government (1) monitor and account for U.S. contributions to the ARTF, (2) evaluate whether ARTF-funded projects have achieved their stated goals and objectives, and (3) utilize and enforce any conditionality on ARTF funding.

Civilian On-Budget Assistance

USAID provides on-budget civilian assistance through (1) bilateral agreements with seven Afghan government entities and (2) contributions to two multidonor trust funds, the ARTF and the AITF.⁴²⁰ According to USAID, all bilateral-assistance funds are deposited in separate bank accounts established by the Ministry of Finance for each program.⁴²¹

The ARTF, administered by the World Bank, provides funds to both the Afghan government's operating and development budgets in support of Afghan government operations, policy reforms, and national-priority programs.⁴²² The AITF, a multidonor trust fund administered by the Asian Development Bank, coordinates donor assistance for infrastructure projects in Afghanistan.⁴²³ According to USAID, the majority of on-budget funding has been and will continue to be directed through the multidonor trust funds, particularly the ARTF.⁴²⁴

As of November, the United States remains the largest donor to the ARTF (30.2% in actual contributions) with the next largest donor being the United Kingdom (17.8% in actual contributions).⁴²⁵ According to the World Bank,

the ARTF is the largest single source of support for the Afghan government budget at \$9.1 billion as of September 2016.⁴²⁶ The ARTF recurrent-cost window supports operating costs, such as Afghan government non-security salaries. The recurrent-cost window pays 16–20% of the Afghan government's non-security operating budget.⁴²⁷

On-Budget Assistance to the ANDSF

A large portion of total U.S. on-budget assistance goes toward the Afghan security forces. DOD provides on-budget assistance to the Afghan government through (1) direct contributions from the Afghanistan Security Forces Fund (ASFF) to the Afghan government to fund MOD and MOI requirements, and (2) ASFF contributions to the multidonor LOTFA.⁴²⁸ Administered by the UNDP, LOTFA primarily funds Afghan National Police salaries and incentives.⁴²⁹ Direct-contribution funding is provided to the Ministry of Finance, which allots it incrementally to the MOD and MOI, as required.⁴³⁰

In February 2011, the Under Secretary of Defense Comptroller authorized the U.S. military's Combined Security Transition Command–Afghanistan (CSTC-A) to provide direct contributions to the Afghanistan government from ASFF to develop ministerial capacity and capability in the areas of budget development and execution, acquisition planning, and procurement. CSTC-A administers all contributions of ASFF resources to the Afghan government to fund MOD and MOI requirements, subject to certain conditions that the ministries must meet for the use of the funds.⁴³¹ CSTC-A monitors and formally audits the execution of those funds to assess ministerial capability and ensure proper controls and compliance with documented accounting procedures and provisions of the annual commitment letters.⁴³² Most of the on-budget funds provided by CSTC-A support salaries, with most of the limited amounts for local procurement used for services such as facility-maintenance contracts.⁴³³

As of November 2016, CSTC-A provided \$1 billion to the MOD, \$278 million to the MOI, and \$85.8 million to LOTFA for the current Afghan fiscal year.⁴³⁴

In December 2015, the UNDP planned to support Afghan police salary payments using LOTFA through December 31, 2016. After this date, it was planned for the Afghan government to take responsibility for Afghan police payroll.⁴³⁵ This quarter, a public accounting firm found that the MOI is expected to meet only 50% of the conditions necessary to transition Afghan police payroll management from UNDP to MOI.⁴³⁶ In December 2016, the LOTFA project board approved a one-year extension of LOTFA's support for MOI payroll.⁴³⁷

In September 2016, CSTC-A approved a change in the use of \$233 million in ASFF originally intended as on-budget contributions for MOD to instead pay for priority unfunded requirements, including an aviation maintenance



NATO partner countries approved about \$390 million for projects to support Afghan forces in December. (DOD photo)

contract, 453 High-Mobility Multipurpose Wheeled Vehicles, medical consumables, and communications equipment.⁴³⁸

According to CSTC-A, the Afghan government's procurement process is hindering the execution of ASFF funds provided as direct contributions. As of September 2016, the execution rate was only 37%.⁴³⁹ DOD has observed the Afghan government making changes to their process that will hopefully increase the execution rate. CSTC-A officials believe Afghan government procurement reforms—particularly the establishment of the National Procurement Commission that is chaired by President Ghani and reviews all operations and maintenance contracts above \$300,000 and construction contracts over \$1.5 million before contract award—has enforced contracting standards and reduced corruption. However, the Department of Defense Inspector General (DOD IG) found that CSTC-A does not have any metrics to determine the National Planning Commission's effectiveness in this regard.⁴⁴⁰

A senior CSTC-A official told SIGAR that CSTC-A has decided to conduct future fuel procurements for the ANDSF off-budget. CSTC-A concluded that poor Afghan government fuel-contract administration created opportunities for contractors to substitute lower-quality fuel and sell fuel meant for the security forces on the open market. CSTC-A plans to administer the fuel procurements off-budget and conduct spot checks of fuel delivery.⁴⁴¹

MOD and MOI Had Mixed Results in Meeting Conditions for U.S. Funding

In November, DOD found that while the MOD and MOI made satisfactory progress in meeting the majority of agreed-upon conditions for U.S. funding assistance, both ministries had a significant number of deficiencies.

Of 59 conditions defined in the commitment letter, CSTC-A determined that the MOD made satisfactory progress toward meeting 35 conditions and insufficient progress toward meeting 24. This quarter, CSTC-A provided no incentive funding to the MOD for satisfactory progress. CSTC-A determined that the MOD failed to conduct capital asset inventory assessments for 10 MOD installations, prompting CSTC-A to withhold 20% of conditional funds available for construction of MOD buildings. CSTC-A also found that the MOD failed to provide the required 100% accounting of night-vision devices, prompting CSTC-A to continue withholding future deliveries of night-vision devices to three mobile strike force battalions that were deficient. Although required by the commitment letters to provide a list of all small arms and provide timely reports for lost weapons, the MOD has yet to provide such a list.⁴⁴²

Additionally, the MOD reported 835 lost weapons but provided insufficient documentation for these losses. Because of this, CSTC-A will not issue small arms until MOD provides a full accounting by unit. CSTC-A will also not replace any lost weapons until sufficient documentation is received. CSTC-A stopped penalizing the MOD for ammunition accountability deficiencies following MOD-implemented corrective actions including the suspension of 111th Capital Division's ammunition officer, the submittal of missing ammunition consumption data by 215th Corps, and the uploading of ammunition data by 111th Capital Division and the Afghan Air Force. While the two mobile strike force brigades were delinquent in ammunition reporting, CSTC-A decided to provide additional capacity assistance in lieu of applying penalties since these brigades are fairly new organizations. CSTC-A identified a further 16 conditions with insufficient progress, but imposed no additional penalties on the MOD; however, DOD says that penalties may be assessed following the next quarterly review.⁴⁴³

Of 74 MOI conditions defined in the commitment letter, CSTC-A determined that the MOI made satisfactory progress on 37 conditions, while 37 had insufficient progress. This quarter, CSTC-A provided no incentive funding to the MOI for satisfactory progress. CSTC-A found that the MOI has not sufficiently investigated cases of gross violation of human rights (GVHR). In response, CSTC-A will continue to withhold MOI's travel budget for all but gender-related trainings and deny raises to the MOI offices that compose the MOI's GVHR Committee.⁴⁴⁴

The MOI was required to provide a 100% inventory of Afghan Local Police equipment by July 31, 2016. However, CSTC-A found that only 123 of 179 ALP districts met this goal. As a result, CSTC-A withheld \$833,000 for military tools and equipment as a one-time penalty. The MOI had a similar problem with providing a 100% inventory of General Command Police Support Unit (GCPSU) equipment. As of the June 30, 2016, deadline, 80% of GCPSU units reported their full inventories. In response, CSTC-A levied a

one-time penalty of \$833,000 from the MOI's budget for items such as mattresses, pillows, and laundry.⁴⁴⁵

The MOI also failed to fully account for night-vision devices, prompting CSTC-A to withhold future deliveries to two Afghan National Civil Order Police brigades. Although required by the commitment letters to provide a list of all small arms and provide timely reports for lost weapons, the MOI has yet to provide such a list. Because of this, CSTC-A will not issue small arms or replace lost weapons until MOI provides a full accounting of small arms by police zone. CSTC-A identified a further 30 conditions with insufficient progress but imposed no additional penalties on the MOI; however, DOD says that penalties may be assessed following the next quarterly review.⁴⁴⁶

In December, DOD IG found that while CSTC-A did begin imposing limited penalties on the Afghan government for failure to comply with commitment letters, CSTC-A did not impose these penalties consistently. DOD IG concluded that CSTC-A does not have a formal process in place to determine and enforce penalties for violations. According to CSTC-A officials, they were reluctant to assess penalties because the excess enforcement of penalties could inhibit the Afghans' ability to conduct security operations. DOD, however, disagrees with DOD IG's finding, arguing that Resolute Support advisors assess conditions either monthly or quarterly and make recommendations to either impose or waive penalties.⁴⁴⁷

CSTC-A commented that the current Afghan fiscal year commitment letters had only mixed success in achieving conditions. According to CSTC-A, some of the lessons learned include: conditions must be enforceable, unachievable conditions can be counterproductive, overlooking missed conditions undermines credibility, and strategic patience is required to see sustainable effects. As CSTC-A develops the next fiscal year commitment letters, they will focus on the highest-priority conditions, plan to impose fines rather than percentage decreases for specific budget lines, look to provide more incentive clauses rather than penalties, and reduce the overall number of conditions.⁴⁴⁸

NATIONAL GOVERNANCE

Capacity-Building Programs

USAID capacity-building programs seek to improve Afghan ministries' ability to prepare, manage, and account for on-budget assistance. These programs also provide general assistance to support broader human and institutional capacity building of Afghan government entities.⁴⁴⁹ USAID also seeks to increase civil-society capacity through the Afghan Civic Engagement Program (ACEP). As shown in Table 3.15, active programs include the Ministry of Women's Affairs' Organizational Restructuring and

GOVERNANCE

TABLE 3.15

USAID CAPACITY-BUILDING PROGRAMS AT THE NATIONAL LEVEL					
Project Title	Afghan Government Partner	Start Date	End Date	Total Estimated Cost (\$)	Cumulative Disbursements, as of 12/31/2016 (\$)
Afghan Civic Engagement Program (ACEP)	N/A	12/4/2013	12/3/2018	\$70,000,000	\$40,226,038
Assistance to Legislative Bodies of Afghanistan (ALBA)	Parliament	3/28/2013	3/27/2018	24,990,827	18,710,629
Ministry of Women's Affairs Organizational Restructuring and Empowerment (MORE)	Ministry of Women's Affairs	12/20/2012	12/19/2016	14,182,944	10,576,100

Source: USAID, response to SIGAR data call, 1/18/2017.

Empowerment (MORE) project, a \$14 million project that, among other things, helps the ministry improve its financial management, as required for future on-budget assistance.⁴⁵⁰

MORE closed in December. Before closing, MORE processed one-off payments to enable MORE-supported scholarship recipients to continue their studies beyond the end of the program. MORE staff finalized 10 provincial gender profiles to serve as templates for the Ministry of Women's Affairs in developing profiles for the remaining 24 provinces. These profiles summarize province-level statistics including population estimates, the number of female legal and police personnel, female voter turnout, and the number of violence against women cases.⁴⁵¹

USAID has also provided \$5 million for the \$150 million, ARTF-managed Capacity Building for Results (CBR) program. CBR aims to improve the capacity and performance of Afghan government ministries by providing skilled civil servants to implement ministries' reform programs. CBR provides Afghan government ministries with the opportunity to recruit high-capacity staff into critical posts at salaries closer to market rates. The aim is to increase on-budget service delivery and reduce reliance upon the so-called "second civil service" wherein Afghan consultants, instead of civil servants, perform government functions.⁴⁵²

At the October 2016 Brussels Conference, the Afghan government committed to recruit 1,200 government personnel by December 2017 and to fill the remaining positions by 2018. Previously, the Afghan government had committed to recruit at least 800 of 2,400 planned CBR positions by December 2016. As of September 2016, the Afghan government had issued contracts to 196 persons.⁴⁵³

National Assembly

Between November 12 and 15, the lower house of parliament passed no-confidence votes against seven of 16 ministers summoned to explain why their ministries executed less than 70% of their development budgets (projects and investments are funded from a ministry's development budget). The parliament considers the following ministers to be dismissed following the no-confidence votes: the Minister of Foreign Affairs; Minister of Public

Works; Minister of Labor, Social Affairs, Martyrs and Disabled; Minister of Education, Minister of Transport and Civil Aviation; Minister of Higher Education; and Minister of Communications and Information Technology.⁴⁵⁴ On November 14, President Ghani ordered the ministers to continue working, referring the legality of the dismissals to the Supreme Court.⁴⁵⁵

On December 22, the start of the new Afghan fiscal year, the lower house of parliament rejected the draft budget submitted by the executive. Among the reasons cited, parliament argued that project funds were not well balanced between provinces.⁴⁵⁶ On the same day last year, parliament rejected the draft budget with the same critique.⁴⁵⁷ On January 15, 2017, the parliament passed the budget on its third attempt with only 57% of lower house members participating in the vote.⁴⁵⁸

According to State, the parliament continues to face difficulties achieving quorum, though this occurs less often when sessions relate to the elections, official nominations, or key legislation with broad constituent interest. Parliament suspended six members for being absent and threatened to suspend an additional three members. Parliament has also been declaring sessions quorate despite having only a minority of members present.⁴⁵⁹

USAID funds the \$25 million Assistance to Legislative Bodies of Afghanistan project (ALBA) to help Afghanistan's parliament operate as an independent and effective legislative, representative, and oversight body.⁴⁶⁰ In December, the parliament approved an anti-harassment bill that had received ALBA support since its inception as a member-proposed bill. The new law defines jail terms and cash fines for those convicted of harassing women and children. Following the bill's passage, ALBA supported a press conference on the bill and briefed the audience on its main themes.⁴⁶¹

Following the publication of an ALBA mid-year report that found low development-budget execution by the Afghan government, ALBA has received regular requests from parliamentary commissions for regular budget updates. In November, the lower house of parliament held hearings for—officially—low execution of ministry development budgets. Following parliament's votes of no confidence for seven ministers, the Parliamentary Anti-Corruption Caucus requested that ALBA prepare information on the laws and regulations that relate to the dismissal of ministers.⁴⁶²

Civil Society

The Afghan Civic Engagement Program's goal is to promote civil-society and media engagement that enables Afghan citizens to influence policy, monitor government accountability, and serve as advocates for political reform. ACEP aims to achieve this goal through five program areas: (1) regular civil-society organization (CSO) engagement with the Afghan government, (2) increased CSO and media expertise in democracy and governance, (3) expanded civic engagement, (4) improved access to

independent news and public affairs information, and (5) increased CSO organizational capacity.⁴⁶³

This quarter, ACEP sponsored a two-day conference that brought together over 400 civil-society, media, and government representatives from all 34 Afghan provinces. According to USAID, the conference was an opportunity to discuss current engagement among CSOs, media organizations, and government agencies, and foster improved future coordination and cooperation. ACEP also sponsored 34 emerging Afghan civil-society leaders for a 10-day study tour to Sri Lanka to expose the participants to youth activities carried out by other organizations and governments. ACEP sponsored a three-day training for ACEP-supported CSOs that focused on results-based monitoring, management, and development of logical frameworks to assist with reporting outcomes.⁴⁶⁴

ACEP recently released a baseline study on the enabling environment for CSOs in Afghanistan. The study focused on the legal framework, the socio-cultural environment, governance, and financial viability that influence CSO development and activities. Using interviews and case studies, the data were used to generate factor-specific scores between -1 (wholly un-supportive of CSO activity) and 1 (wholly supportive). Overall, the baseline study found an overall enabling environment score of 0.33 (somewhat supportive). Corruption, insufficient CSO and government capacity and technical expertise, poor CSO interactions with government, rule of law challenges, access to funding, and the tying of donor-driven priorities to funding were cited as the main obstacles to CSO activities. On the positive side, CSOs report they increasingly coordinate with each other (in line with donor priorities) and are able to attract more volunteer support.⁴⁶⁵

The scores for the four main factors were: legal framework (0.31) with ease of CSO registration the highest sub-factor and the extent to which taxes are fair, efficient, and transparent the lowest sub-factor; social-cultural environment (0.65) with the extent to which CSOs successfully influence government the highest sub-factor and the extent to which CSOs are seen as independent and professional the lowest sub-factor; governance (0.17) with the extent to which CSOs collaborate with each other and the government the highest sub-factor and the extent to which the environment supports CSO involvement in service provision and the extent to which corruption does not affect the work of CSOs the lowest sub-factors; and financial viability (0.2) with the extent to which CSOs are financially independent the highest sub-factor and the extent to which CSOs are able to access funding the lowest sub-factor.⁴⁶⁶

There were some discrepancies between quantitative survey results and qualitative data gathered through in-depth interviews and focus group discussions. For example, while CSO respondents gave community support a high score in the survey, CSO members spoke of the hostility they experienced from more conservative elements in society that regarded civil

society as not in line with Islam or as an “imported” Western concept. Many CSOs have, consequently, felt the need to incorporate Islamic rhetoric in order to align their operations with prevalent cultural paradigms.⁴⁶⁷

SUBNATIONAL GOVERNANCE

Provincial and Municipal Programs

USAID has two subnational programs focused on provincial centers and municipalities: the Initiative to Strengthen Local Administrations (ISLA) and Strong Hubs for Afghan Hope and Resilience (SHAHAR) programs. Table 3.16 summarizes total program costs and disbursements to date.

TABLE 3.16

USAID SUBNATIONAL (PROVINCIAL AND MUNICIPAL) PROGRAMS				
Project Title	Start Date	End Date	Total Estimated Cost (\$)	Cumulative Disbursements, as of 12/31/2016 (\$)
Strong Hubs for Afghan Hope and Resilience (SHAHAR)	11/30/2014	11/29/2017	\$73,499,999	\$29,441,104
Initiative to Strengthen Local Administrations (ISLA)	2/1/2015	1/31/2020	62,364,687	13,468,975

Source: USAID, response to SIGAR data call, 1/18/2017.

Initiative to Strengthen Local Administrations

The \$62 million ISLA program is meant to enable the Afghan government to improve provincial governance in the areas of fiscal and development planning, representation of citizens, and enhanced delivery of public services. ISLA aims to strengthen subnational systems of planning, operations, communication, representation, and citizen engagement, leading to services that more closely respond to all citizens’ needs in health, education, security, justice, and urban services.⁴⁶⁸

During the quarter, ISLA conducted provincial budget training for 45 public financial management committee participants from nine provinces. ISLA advisors finished drafting provincial-governor office guidelines and submitted the draft for review. ISLA also supported a town hall meeting in Badghis Province to discuss the Brussels Conference and the Afghan government’s Citizen Charter. Approximately 204 participants—including 32 women—attended the meeting.⁴⁶⁹

Strong Hubs for Afghan Hope and Resilience

The objective of the \$73 million SHAHAR program is to create well-governed, fiscally sustainable Afghan municipalities capable of meeting the needs of a growing urban population. The urban portion of Afghanistan’s population has risen from 22% in 2004 to an estimated 25% in 2016/2017. Targeted support to municipal governments, as well as to the deputy

ministry of municipal affairs and municipal advisory boards, aims to improve municipal financial management, urban service delivery, and citizen consultation.⁴⁷⁰

As of the end of October, SHAHAR-supported municipalities collected \$27,073,939 in revenues for the current Afghan fiscal year. This represents an 8% increase in revenues collected in the previous year, but only 42% of the expected revenue for the current fiscal year that ends December 21. Only two SHAHAR-supported municipalities are on track to achieve their revenue targets. SHAHAR-supported municipalities executed \$22,301,207 of their budgets, representing 77% of expenditures compared to the previous fiscal year, but only 30% of the current fiscal year's budget.⁴⁷¹ As of December 31, 2016, SHAHAR-supported municipalities collected an additional \$5 million in revenue for 2016 as compared to 2015, a 21% increase.⁴⁷²

RECONCILIATION AND REINTEGRATION

The U.S. and Afghan governments agree that the best way to ensure lasting peace and security in Afghanistan is reconciliation and a political settlement with the Taliban.⁴⁷³

According to the United Nations Secretary-General, there was no substantive movement towards a peace process between the Afghan government and the Taliban this quarter.⁴⁷⁴ Taliban leaders reportedly believe that the 2016 fighting season was a success and, for the time being, there is no incentive to enter into a strategic negotiation process.⁴⁷⁵ On December 23, the Taliban again publicly rejected peace talks, reiterating their long-held stance that talk of peace and reconciliation is “meaningless” as long as foreign forces remain in Afghanistan.⁴⁷⁶

On December 2, General John Nicholson, the commander of U.S. and NATO forces in Afghanistan, labeled Russia, Pakistan, and Iran as malign actors that enable insurgent or terrorist groups in Afghanistan. Nicholson said that Russia lends public legitimacy to the Taliban, which undermines the Afghan government and NATO efforts to stabilize Afghanistan.⁴⁷⁷ On December 10, Russia's ambassador to Afghanistan testified before Afghanistan's upper house of parliament that Russia maintained contact with the Taliban to ensure the safety of Russian nationals and encourage the Taliban to engage in peace talks with the Afghan government. He expressed annoyance with Afghanistan's critique of Russia's approach, arguing that other countries have similar relations with the Taliban.⁴⁷⁸ The Afghan government maintains that any outside contact with the Taliban, without the prior knowledge and approval of the Afghan government, is a legitimization of terror and a breach of Afghanistan's sovereignty.⁴⁷⁹

On December 27, the governments of Russia, China, and Pakistan met in Moscow to discuss the security situation in Afghanistan. The three countries agreed to a “flexible approach” to remove certain Taliban members

from sanctions lists to foster dialogue between the Afghan government and the Taliban. This is contrary to Afghanistan's recent request to include more Taliban leaders on international sanctions lists. The Afghan government expressed its displeasure at not being invited to the meeting.⁴⁸⁰ A representative of the Taliban's political office in Qatar welcomed the suggestion to remove Taliban members from sanctions lists.⁴⁸¹

During a Heart of Asia Conference held in December, President Ghani accused Pakistan of not doing enough to help stabilize Afghanistan, saying, "As a Taliban figure said recently, if they had no sanctuary in Pakistan, they wouldn't last a month." The Heart of Asia process was established in November 2011 to provide a platform to strengthen security and economic and political cooperation among Afghanistan and its neighbors. Pakistan responded that Afghanistan should avoid blaming Pakistan for its domestic problems.⁴⁸²

After the conference, the Pakistani foreign secretary said in a television interview that some Taliban and Haqqani members reside in Pakistan. He insisted, however, that the Pakistan government has told these militants that they are not allowed to attack Afghanistan and that Pakistan is applying "incremental pressure" to persuade these groups to participate in peace talks. He also said that Pakistan has told Afghan authorities that Pakistan will not use its military to fight these insurgents for fear that this would bring Afghanistan's conflict to Pakistan.⁴⁸³

In what DOD sees as a potential sign of rapprochement, the powerful Kandahar police chief General Abdul Raziq—who in 2014 said that he ordered his troops to kill militants rather than refer them to potentially corrupt courts—suggested in December that an area be designated where Taliban fighters and their families can live in Afghanistan, calling the Taliban "sons of the country."⁴⁸⁴

Last quarter, the Afghan government finalized a peace agreement with the Hezb-e Islami Gulbuddin (HIG) insurgent group.⁴⁸⁵ In the peace deal, the Afghan government committed to several actions, including requesting the removal of HIG leaders from UN and other sanctions lists.⁴⁸⁶ According to the UN Secretary-General, as of December 13, the United Nations has yet to receive a formal request for the removal of HIG's leader—Gulbuddin Hekmatyar—from the sanctions list of either Afghanistan or the United States (as the original listing state).⁴⁸⁷ The day prior, a spokesman for the Afghan National Security Council said that Afghanistan's Ministry of Foreign Affairs submitted a request to the UN to remove Hekmatyar from the sanctions list.⁴⁸⁸

In December, the United Kingdom deported Faryadi Sarwar Zardad, who was convicted of torture in 2005 for his actions while a Hezb-e Islami commander in the 1990s.⁴⁸⁹ The Afghanistan Independent Human Rights Commission called for the prosecution of war criminals, including Faryadi, and warned of a culture of impunity in Afghanistan.⁴⁹⁰

In January, the *Wall Street Journal* reported that Russia was hindering the removal of Hekmatyar's name from the UN sanctions list. As of early January, a Russian spokesperson confirmed that Russia had put a hold on the delisting but not blocked it.⁴⁹¹ By mid-January, however, it was DOD's understanding that the delisting request was being processed.⁴⁹²

Afghanistan Peace and Reintegration Program

On March 31, 2016, the Afghanistan Peace and Reintegration Program (APRP) closed following a decision by APRP donors, the Afghan government, and UNDP.⁴⁹³ The APRP was an Afghan-led program to reintegrate low-level insurgent fighters and their commanders into Afghan civil society.⁴⁹⁴ The APRP was the only institutional mechanism within the Afghan government with the capacity to pursue both high-level reconciliation negotiations and provincial-level reintegration of insurgent fighters.⁴⁹⁵

In early 2017, the Afghan government plans to launch a successor to the APRP in the form of a five-year Afghanistan National Peace and Reconciliation (ANPR) strategy, pending approval from President Ghani. According to State, the ANPR is expected to shift from the disarmament, demobilization, and reintegration focus of the APRP to negotiating political settlements with armed opposition groups, forging national and international consensus on a peace process, and promoting and institutionalizing a culture of peace.⁴⁹⁶

In December 2016, State provided \$1.1 million to support the ANPR. State intends to disburse another \$3.9 million in early 2017. The ANPR process has not yet launched as the Afghan government is in the process of finalizing the ANPR strategy.⁴⁹⁷

RULE OF LAW AND ANTICORRUPTION

In late October, the World Justice Project released its 2016 *Rule of Law Index*. This year, Afghanistan was ranked 111 out of 113 countries assessed. Overall, Afghanistan scored 0.35 (on a scale of 0 to 1 with one being the highest possible score). Afghanistan scored the highest on constraints on government powers (0.43) and open government and fundamental rights (both 0.40). Afghanistan's worst scores were in absence of corruption (0.23) and criminal justice (0.28). The scores are derived from a poll of 1,000 respondents in the country's three largest cities (Kabul, Kandahar, and Herat in Afghanistan's case) and a questionnaire of legal and public-health experts.⁴⁹⁸

On January 2, 2017, President Ghani suspended the Minister of Communications and Information Technology following an audit into the collection of a 10% tax on mobile phone minute top-ups. Ghani reportedly was not satisfied with the level of cooperation the ministry provided during an investigation into alleged corruption associated with the tax.⁴⁹⁹

Project Summary

The United States has assisted the formal and informal justice sectors through several mechanisms. These include State's Justice Sector Support Program (JSSP) and Justice Training Transition Program (JTTP). These and other rule-of-law and anticorruption programs are shown in Table 3.17.

USAID has a cooperation arrangement with the United Kingdom's Department for International Development to fund the Independent Joint Anti-Corruption Monitoring and Evaluation Committee (MEC). USAID support funds the MEC's monitoring, analysis, and reporting activities, including its vulnerability-to-corruption assessments.⁵⁰⁰ This quarter, USAID provided the MEC an additional \$500,000 to fund a ministry-wide vulnerability-to-corruption assessment of the Ministry of Education (MOE), follow-up activities for both this assessment, and follow-up activities for a previously completed Ministry of Public Health assessment. The MOE, recognizing the political imperative to address corruption challenges in their ministry, requested the assessment.⁵⁰¹

USAID aims to improve public services by reducing corruption opportunities in the Afghan government's administrative and business processes. In November 2015, USAID modified the existing Advancing Effective Reforms for Civic Accountability (AERCA) project—previously the Afghanistan Electoral Reform and Civic Advocacy project—to address immediately identifiable corrupt practices.⁵⁰²

AERCA had identified 10 services that are important to Afghans but are perceived as not working as well as expected: (1, 2) disability and martyr payments by the Ministry of Labor, Social Affairs, Martyrs and Disabled; (3, 4, 5) driver's license issuance, vehicle registration, and national identification by the MOI; (6, 7) issuance of diplomas and transcripts by the Ministry of Higher Education; (8) small business license registration by the Kabul Municipality; (9) property registration by the Supreme Court; and (10) high-school diploma issuance by the MOE.⁵⁰³ In August, USAID and AERCA decided to suspend AERCA's assistance to the driver's license service after determining that there was insufficient political will for reform in the MOI's traffic department to enable worthwhile collaboration.⁵⁰⁴

This quarter, USAID signed a memorandum of understanding with the MOE to support the MOE's ability to issue high school certificates. USAID, via AERCA, intends to equip all 35 MOE provincial certification units with information technology infrastructure and training to facilitate remote data entry of student performance records into the MOE's Certificate Management Information System. The system intends to assure compliance with graduation procedures, print high school certificates centrally, and allow for efficient distribution.⁵⁰⁵ AERCA's service reform efforts, other than the new high school diploma initiative, are largely restricted to Kabul.⁵⁰⁶

In November, AERCA reported that the Kabul Municipality approved AERCA's proposed business license simplification and improvement

At the October Brussels Conference, the Afghan government committed to simplify 15 to 25 public services, integrate these services into a one-stop shop by 2017, and expand this model to three additional locations in Kabul by 2018.

Source: Brussels Conference on Afghanistan, "Self-Reliance through Mutual Accountability Framework: SMART Deliverables 2017/2018," 10/5/2016, p. 2.

GOVERNANCE

TABLE 3.17

RULE OF LAW AND ANTICORRUPTION PROGRAMS				
Project Title	Start Date	End Date	Total Estimated Cost (\$)	Cumulative Disbursements, as of 12/31/2016 (\$)
Justice System Support Program II (JSSP II)	6/16/2010	2/28/2017	\$270,142,052	\$265,694,800
Assistance for Development of Afghan Legal Access and Transparency (ADALAT)	4/15/2016	4/14/2021	68,163,468	2,808,579
Electoral Reform and Civic Advocacy (AERCA)*	7/13/2009	6/30/2017	51,302,682	43,401,166
Corrections System Support Program (CSSP IV)**	3/1/2016	2/28/2017	15,000,000	10,358,392
Justice Training Transition Program (JTTP) Follow On***	4/1/2016	11/30/2017	47,759,796	47,759,796
Delegated Cooperation Agreement (DCAR) with the Department for International Development (DFID) for Independent Joint Anti-Corruption Monitoring and Evaluation Committee (MEC)	5/19/2015	8/31/2020	3,000,000	2,000,000

Note:

*On November 1, 2015, USAID extended the AERCA award beyond the planned December 31, 2015 end date, added \$12.6 million in estimated costs, and incorporated additional anticorruption activities into the program description. The information in the table refers to the entire award, not simply the new anticorruption portion covered by the modification.

**Disbursements as of 11/30/2016

***The follow on project is a no-cost extension with funds having already been disbursed.

Source: State, INL, response to SIGAR data call, 12/20/2016; USAID, response to SIGAR data call, 1/18/2017.

process. AERCA plans to conduct a census and registration of businesses in Kabul's 22 municipal districts. AERCA's surveyors will present themselves to the surveyed businesses as Kabul Municipality staff.⁵⁰⁷

AERCA has awarded grants to a number of civil-society organizations for public accountability and outreach efforts to support Afghan government service reforms. This quarter, AERCA grantees held outreach events in Kabul, Kunduz, Wardak, Nangarhar, and Logar Provinces encouraging participants to use the *GovMeter* website which tracks President Ghani's pre-election commitments and the Afghan government's post-election commitments.⁵⁰⁸ Managed by ToloNews, this website showed the Afghan government as having achieved 8% of their total commitments in December. Additionally, 32% of commitments were registered as being under way, 2% were not achieved, and 58% were inactive.⁵⁰⁹

State's JSSP objectives include continuing to develop a case-management system (CMS) to track cases throughout Afghanistan's justice system and to build the capacity and administrative skills of ministry officials.⁵¹⁰ As of November 25, 2016, 22,070 civil cases have been entered into CMS since implementation began in 2014, and 261,653 criminal cases have been entered since 2011.⁵¹¹

This quarter, JSSP participated in a joint meeting of the **Criminal Law Reform Working Group (CLRWG)** and Criminal Procedure Code Working Group (CPCWG) to propose two major changes to current law involving misdemeanor cases where the accused is facing imprisonment of less than five years. JSSP advised that prosecutors should have authority to suspend prosecution upon court approval. Under this JSSP proposal, proceedings will be suspended if the accused agrees in writing to certain conditions

The **Criminal Law Reform Working Group (CLRWG)** assists the Ministry of Justice's Taqin Department to draft and review criminal legislation. The Taqin Department serves as the primary link between the Council of Ministers (COM) and parliament on the implementation of the government legislative work plan. CLRWG membership includes representatives from the MOI, Supreme Court, AGO, and other national and international institutions.

Source: JSSP "Legislative Support," <http://jsspafghanistan.com/index.php/wwork/sections/legislativesupport.html>, accessed 12/29/2016; JSSP JSSP Activity Report, 11/25/2016, p. 7.

imposed by the prosecutor, such as completion of drug treatment in a misdemeanor drug case. If the accused commits no additional offenses and completes all conditions, the case will be dismissed. In response to the proposal, a majority of the participants agreed to authorize prosecutors to suspend prosecution in unintentional misdemeanor cases (such as car accidents), but not in other misdemeanor cases. Participants argued that prosecutors can be entrusted with authority to suspend only cases involving minor crimes. JSSP also proposed to allow courts the authority to suspend trial, but this proposal was not taken up.⁵¹²

CLRWG and CPCWG members also agreed that an accused acquitted by the trial court shall be released immediately from pretrial detention, except in cases of terrorism or crimes against internal or external security. This decision, if approved by parliament, will substantially eliminate the practice of holding an acquitted person in detention while the prosecutor appeals the verdict of acquittal.⁵¹³

This quarter, State's \$48 million Justice Training Transition Program, in partnership with the Supreme Court, conducted data collection for an institution-wide learning needs assessment to identify the most prevalent learning needs among judges. The assessment, which will include interviews from a sample of more than 260 judges, was conducted through key informant interviews and self-assessment questionnaires with judges and their supervisors. The results of this assessment should be available next quarter.⁵¹⁴

In April, USAID launched the \$68 million Assistance for the Development of Afghan Legal Access and Transparency (ADALAT) program. ADALAT aims to (1) increase the effectiveness and reach of the formal justice sector, (2) strengthen the linkages between the formal and traditional justice sectors, and (3) increase citizen demand for quality legal services. ADALAT ("justice" in Dari and Pashto) will work closely with Afghan justice institutions to increase the professionalism of justice-sector actors, to improve judicial administrative and management systems, and to strengthen the Ministry of Justice (MOJ) Department of the **Huquq** ("rights") and its interaction with traditional justice on civil-related matters. It also will develop the technical, organizational, and management capacity of USAID civil-society partners operating in the formal and traditional justice sectors, and will support their missions to eliminate practices that violate human rights in traditional dispute resolution within the informal justice sector and to increase citizen awareness of and demand for fair and accessible justice services.⁵¹⁵ This quarter, ADALAT finalized human and institutional capacity-development assessments of the Afghanistan Independent Bar Association, the **Huquq** Department, and the Supreme Court's general directorates of administration/finance and human resources. USAID will conduct follow-up meetings with the assessed organizations to discuss the types of assistance USAID will support.⁵¹⁶

Huquq offices provide an opportunity for citizens to settle civil cases within the formal system before being brought into the court system

Source: Afghanistan Justice Sector Support Program, "Ministry of Justice," 2016.

ADALAT found in the course of their training-needs assessment for sitting judges that the Supreme Court does not have reliable data on the types of cases being heard by judges across the country, including data contained in the Afghanistan Court Administration System (ACAS). In 2012, a previous USAID project reported that ACAS—a paper-based, manual case-management system that enables court personnel to effectively and efficiently track cases—had been extended to 514 of 551 courts. Because of incomplete data, ADALAT will rely on data collected in its review of judicial caseload statistics in the provinces, as well as review the Justice Training Transition Program’s judicial training-needs survey results, to prepare their training needs assessment.⁵¹⁷

Afghan Correctional System

According to State, the inmate population of Afghanistan’s prisons, managed by the General Directorate of Prisons and Detention Centers (GDPDC), increased by an average of 6.15% annually over the past 5 years. As of October 31, the GDPDC incarcerated 26,914 males and 876 females, while the MOJ’s Juvenile Rehabilitation Directorate (JRD) incarcerated 695 male juveniles and 100 female juveniles. These incarceration totals do not include detainees held by any other Afghan governmental organization, as State’s Bureau of International Narcotics and Law Enforcement Affairs (INL) does not have access to their data.⁵¹⁸

Overcrowding is a persistent, substantial, and widespread problem within GDPDC facilities for adults, despite presidential amnesty decrees and the transfer of National Security Threat inmates to the MOD that have reduced the prison population significantly. As of October 31, the total male provincial-prison population was at 186% of capacity, as defined by the International Committee of the Red Cross’s (ICRC) minimum standard of 3.4 square meters per inmate. The total female provincial-prison population was at 127% of the ICRC-recommended capacity. The JRD’s juvenile-rehabilitation centers’ population was at 57% of ICRC-recommended capacity.⁵¹⁹

In December, the UN Assistance Mission in Afghanistan (UNAMA) released an assessment of Afghanistan’s juvenile rehabilitation centers. UNAMA surveyed 31 facilities to ascertain detention conditions. INL’s Corrections System Support Program (CSSP) was named multiple times as a key player in helping to ensure that juveniles were treated humanely and in compliance with the minimum standards for juvenile detention. Seven of the surveyed facilities reported that CSSP provided incarcerated juveniles with winter clothing (additional facilities were serviced by the ICRC).⁵²⁰

One gap noted by UNAMA was the relative scarcity of assistance aimed at prisoner rehabilitation and reintegration, such as vocational programming, shelter assistance, and career assistance. UNAMA highlighted an INL-supported vocation training program in Herat Province and recommended that this assistance be expanded across the country. According

to INL, the report found that the Afghan government was compliant with administrative procedures, accommodation, and other basic needs, a key INL priority.⁵²¹

Anticorruption

At the October 2016 Brussels Conference, the Afghan government agreed to draft and endorse an anticorruption strategy for the whole of government by the first half of 2017. Implementation of this strategy is to occur by the second half of 2017. Additionally, five revenue-generating ministries are to publicly report on implementation progress of their anticorruption action plans in 2017.⁵²²

Anti-Corruption Justice Center

On May 5, President Ghani announced the establishment of a specialized anticorruption court, the Anti-Corruption Justice Center (ACJC).⁵²³ The ACJC brings together Major Crimes Task Force (MCTF) investigators, Afghan Attorney General's Office (AGO) prosecutors, and judges to combat serious corruption.⁵²⁴ The ACJC's jurisdiction covers major corruption cases committed in any province involving senior officials or substantial monetary losses of a minimum of 5 million afghanis (approximately \$73,000).⁵²⁵

As of December 13, 55 cases have been referred to the ACJC with eight cases that met the ACJC's criteria having been assessed for prosecution. The first ACJC trial was held on November 12 and resulted in the conviction of a bank branch manager for embezzlement of \$152,500. The second trial was completed on November 19 and resulted in a bribery conviction with a two-and-a-half-year sentence with a fine for a high-ranking AGO prosecutor.⁵²⁶ The convicted AGO prosecutor was caught demanding a \$760 bribe to secure the release of a prisoner at the end of his sentence.⁵²⁷ Additionally, on January 9, 2017, the ACJC sentenced an MOI major general—formerly the MOI deputy minister for strategy and planning—to 14 years in jail, a \$150,000 fine, and an 18,000 afghani (approximately \$270) fine for accepting a \$150,000 bribe in exchange for awarding a fuel contract. This case was a result of a joint SIGAR/Major Crimes Task Force investigation. For more information about this investigation and conviction, see page 44 in Section 2 of this report.

In January 2017, the ACJC announced that it had finalized investigations into nine MOD generals and four Ministry of Urban Development officials. The nine generals are accused of collectively embezzling approximately \$1.4 million.⁵²⁸

According to Resolute Support, the international community has demanded that ACJC investigators, prosecutors, and judges be vetted and polygraphed. While the MCTF has complied with this requirement, the AGO and Supreme Court have resisted or refused. Resolute Support fears that

without proper vetting of ACJC personnel, there is a strong likelihood that the ACJC could be captured by corrupt elements due to institutional corruption within the AGO and court system.⁵²⁹

According to State, senior Afghan government officials including President Ghani, Chief Executive Abdullah, the chief justice, and the attorney general have fully endorsed an anticorruption agenda, with the centerpiece being the ACJC.⁵³⁰

Afghan Attorney General's Office

According to Resolute Support, other anticorruption bodies, in particular the MCTF, continue to lack faith in the AGO as they continue to observe anticorruption cases being stymied by the AGO. Resolute Support reports that the AGO suffers from institutional corruption and is not transparent in tracking cases post-investigation into prosecution.⁵³¹ According to State, the anticorruption unit of the AGO continues to face political interference in prosecuting corruption cases. Since April 2016, the anticorruption unit reportedly had 22 prosecutions of low-level corruption.⁵³²

Independent Joint Anti-Corruption Monitoring and Evaluation Committee

A presidential decree established the MEC in March 2010. Its mandate is to develop anticorruption recommendations and benchmarks, to monitor efforts to fight corruption, and to report on these efforts. Its board includes three Afghan members and three international members, and is led by an Afghan executive director. The MEC has approximately 20 staff. USAID notes that the MEC may increase its staff since President Ghani has increasingly sought analytical products from it.⁵³³

This quarter, the MEC published its first quarterly monitoring report on implementation of recommendations contained in their June 2016 vulnerabilities-to-corruption report on the Ministry of Public Health (MOPH). The MEC found that the MOPH was particularly active responding to the recommendations in August and September, but that momentum has dissipated. The MEC reports that a complete implementation plan is still outstanding.⁵³⁴

The MEC also released a pilot report seeking to estimate the relative amount of merit- versus patronage-based appointments to the top 100 government positions in Badakhshan Province. The MEC estimated that 31% of these appointments were based on competence whereas 69% were based on patronage.⁵³⁵

High Office of Oversight and Anticorruption

The High Office of Oversight and Anti-Corruption (HOO) was established in July 2008 by presidential decree to oversee and coordinate implementation of the Afghan government's anticorruption strategy. The HOO collects

corruption complaints through a hotline and complaint boxes installed in several ministries and other public-service delivery institutions, and conducts the initial investigation of corruption allegations that it receives before referring allegations to the AGO for further investigation and possible prosecution. According to USAID, these investigations seldom lead to prosecution. Mutual recrimination between AGO and HOO is common.⁵³⁶ The HOO is also charged with collection and verification of asset declarations submitted by Afghan government officials.⁵³⁷

This quarter, the HOO director said that at least 15 of 34 provincial governors have not registered their assets with the HOO. Additionally, the first vice president, the first deputy chief executive, the chief of the National Directorate of Security, the Minister of Defense, the Minister for Disaster Management and Humanitarian Affairs, two deputies of the land authority, and eight deputy ministers have also not registered their assets.⁵³⁸

Last quarter, SIGAR released a follow-up to a 2009 SIGAR report on the HOO. SIGAR found that the asset declarations that were verified by the HOO contained errors and omissions that would have hindered robust verification efforts. Because the HOO was unable to provide SIGAR with supporting documentation showing how it verified asset declarations and the outcomes of verification efforts, those errors in and omissions from verified declaration forms raised questions regarding the efficacy of the process. Further, SIGAR found there were still no penalties for failing to comply with HOO requests, and that the office lacked authority and enforcement power.⁵³⁹

Security Services

According to Resolute Support, the MOD and MOI have shown increased will to respond to corruption following an October 9, 2016, meeting in which President Ghani demanded action. Shortly after this meeting, the MOD ordered the establishment of corps-, brigade-, and independent-command-level Transparency and Accountability Committees (TAC). These TACs are expected to meet bimonthly and send monthly reports to the General Staff Inspector General (GS IG). The GS IG, in turn, is to analyze these reports and brief the results to a General Staff-level TAC.⁵⁴⁰

In the past, the GS IG would receive and forward reports to the MOD Inspector General without additional action. Resolute Support sees the increased role of the GS IG as a sign of MOD demonstrating greater political will to deal with corruption. However, Resolute Support says it cannot yet assess the effectiveness of this new process.⁵⁴¹

The MOI Inspector General recently established 21 multi-province zonal-level inspector general positions. Of these positions, 19 personnel have deployed but have yet to produce any reports.⁵⁴² While the MOI approved a Counter Administrative Corruption Policy in April 2016, implementation has not yet started. According to Resolute Support, the delay is partially due

to the absence of designated MOI leadership to coordinate the various MOI offices with responsibilities to implement the policy.⁵⁴³

Major Crimes Task Force

Since a January 2016 change in MCTF leadership, the MCTF has opened 276 cases (including 112 corruption investigations), and arrested 148 suspects. This is a significant increase in MCTF efforts compared to the previous seven-month period that saw the MCTF open 25 cases and arrest 36 lower-level personnel.⁵⁴⁴

According to Resolute Support, despite supportive MOI leadership in the form of the MCTF director and his superior, the chief of Afghan Anti-Crime Police, the MCTF continues to face challenges from the broader MOI. For example, the MOI reduced the MCTF operational budget to half of its previous amount. According to Resolute Support, this budget cut appears to coincide with the increase in corruption cases and arrests of significant government officials.⁵⁴⁵ Additionally, the MCTF lacks hiring authority and, in general, must accept inexperienced or brand-new officers assigned by the MOI. The MCTF is more closely reviewing personnel applications and transfer requests to (1) ensure minimum qualification standards are met and (2) guard against potential spies or “plants” being sent to the MCTF by corrupt officials.⁵⁴⁶

The MCTF is currently partnering with SIGAR on several investigations. One recent case resulted in the arrest of a major general for his role in a fuel contract bid-rigging scheme. In late August 2016, SIGAR received information relating to allegations of bid rigging and collusion involving the owners of fuel and logistics companies and MOI Major General Abdul Wase Raoufi, formerly the MOI deputy minister for strategy and planning. The bid rigging was related to the MOI fuel procurement bidding process. At the time, Raoufi was the chair of the fuel evaluation committee charged with the oversight of the fuel bidding and procurement process at MOI. SIGAR initiated an investigation into these allegations in conjunction with the MCTF. Raoufi was arrested for accepting a \$150,000 bribe. The MCTF made this arrest despite political pressure by Afghan government and AGO officials. On January 9, 2017, the ACJC sentenced the major general to 14 years in jail, a \$150,000 fine, and an 18,000 afghani (approximately \$270) fine for forging documents.⁵⁴⁷ For more information about this investigation and conviction, see page 44 in Section 2 of this report.

Despite recent progress, Resolute Support reports that the MCTF’s effectiveness against high-level corruption continues to be limited by external factors, such as a lack of AGO transparency and political pressure. Among the pressures, Resolute Support cited the numerous summonses issued by the lower house of parliament for MCTF staff and investigators to respond to allegations against the MCTF. In another instance, a recent MCTF case summary was leaked to the high-profile subject of the investigation.

Additionally, the MCTF continues to face interference in favor of defendants by the chief of military prosecution at the AGO.⁵⁴⁸

HUMAN RIGHTS

Refugees and Internal Displacement

There have been significant changes in refugee movements during the quarter. According to State, there was a rapid increase in Afghan refugees returning to Afghanistan. From January through June, only 7,804 Afghans holding Pakistani Proof of Residency (POR) cards returned to Afghanistan. As of December 23, over 372,000 registered Afghan refugees have repatriated. State sees five primary factors for this increase in returns: (1) Pakistani authorities introduced tighter border controls, especially at the Torkham border crossing, that separated families and negatively affected cross-border commerce for Afghans; (2) Pakistan has issued multiple short-term extensions of the POR cards that have generated concern among the Afghan refugee population about their long-term prospects in Pakistan, especially amid instances of harassment and anti-Afghan rhetoric; (3) the political and social climate in Pakistan has put pressure on Afghans, with many having lost their livelihoods as a result; (4) Afghan officials met with Afghans in Pakistan and promised assistance, such as land allocation, upon their return to Afghanistan; and (5) the UN High Commissioner for Refugees (UNHCR) doubled the repatriation grant on June 25, 2016.⁵⁴⁹ UNHCR had offered a \$400 aid package to returning Afghan families; however, after refugee returns increased to 10 times more than planned, UNHCR had to stop giving the packages until March 2017.⁵⁵⁰

Undocumented Afghan migrants are also returning in large numbers in recent months. These returnees leave Pakistan for the same reasons POR card holders leave, but they are also subject to deportation because of their undocumented status. The International Organization for Migration reports that 220,000 undocumented Afghan migrants have returned from Pakistan in 2016. While Pakistan had previously announced that deportations of undocumented Afghans would begin in earnest on November 15, 2016, State did not observe an increase in Pakistani deportations after the deadline.⁵⁵¹

There has also been an increase in internal displacement. According to the UN's Office for the Coordination of Humanitarian Affairs (OCHA), 583,000 people in Afghanistan fled their homes due to conflict in 2016—the highest number of displacements since record keeping started in 2008. OCHA reported in August 2016 (the most recent reporting) that the total number of internally displaced persons (IDP) in Afghanistan stands at 1.2 million. UNHCR reported that in 2016, the top three destinations for IDPs in 2016 were Kunduz, Kabul, and Nangarhar Provinces. Most IDPs

GOVERNANCE

TABLE 3.18

USAID GENDER PROGRAMS				
Project Title	Start Date	End Date	Total Estimated Cost (\$)	Cumulative Disbursements, as of 12/31/2016 (\$)
Afghan Women's Leadership in the Economy	7/1/2015	6/30/2020	\$71,571,543	\$12,233,322
Women's Leadership Development	9/23/2014	9/22/2019	41,959,377	16,123,722
Promote: Women in Government	4/21/2015	4/20/2020	37,997,644	7,417,855
Promote: Women's Rights Groups and Coalitions	9/2/2015	9/1/2020	29,534,401	4,608,254
Promote: Economic Empowerment of Women in Afghanistan	5/8/2015	5/7/2018	1,500,000	300,000
Promote: Scholarships	3/4/2015	3/3/2020	1,247,522	1,247,522

Source: USAID, response to SIGAR data call, 1/18/2017.

leave insecure rural areas and small towns seeking relative safety and government services in larger towns and cities in the same province.⁵⁵²

Eurostat—the statistical office of the EU—reported 147,130 first-time asylum seekers from Afghans in the EU during the first three quarters of 2016. The number of asylum applications from July to September was 7% higher compared to the same period in 2015.⁵⁵³ A Ministry of Refugees and Repatriation spokesman said in December that approximately 10,000 Afghans have returned from Europe this year.⁵⁵⁴

GENDER

The largest gender-focused initiative in USAID's history is the Promote partnership that aims to assist over 75,000 Afghan women in achieving leadership roles over five years in all parts of society, including business, academia, politics, and public policy.⁵⁵⁵

USAID has committed \$280 million to Promote and hopes to raise an additional \$200 million from other international donors.⁵⁵⁶ No other donors have committed to contribute funds to Promote; however, USAID reports that Promote was designed to achieve the project targets with or without additional funding.⁵⁵⁷ Table 3.18 shows the current Promote programs.

According to USAID, as of September 2016, Promote programs have benefited 7,804 individuals, 118 civil-society organizations, and 178 businesses.⁵⁵⁸ Of the Promote beneficiaries, 15 have been hired by the Afghan government (with support from the Women in Government program), 300 have been hired by private-sector employers (with support from the Women in the Economy program), and 1,841 are involved in internships or apprenticeships (616 with the Women in Government program and 1,498 with the Women in the Economy program).⁵⁵⁹

As of October, 6,631 women have enrolled in Promote's Women in the Economy (WIE) internship and apprenticeship program. Internships give beneficiaries an opportunity to put skills learned in school (e.g., accounting, journalism, computer skills) to practical application, and to gain work

This quarter, SIGAR wrote to USAID regarding USAID's implementation and oversight of the Promoting Gender Equity in National Priority Programs (Promote). See Section 2 for details.



Promote launched a mobile application to help combat street harassment in October. (USAID photo)

experience. Apprenticeship is a system of training new workers in a trade or profession on the job. Apprenticeships are most commonly used in professions where formal classroom training is not available or not sufficient to prepare a worker for a specific job.⁵⁶⁰

WIE assists women-owned businesses and businesses that hire women to perform better, increasing the income growth and sustainability of these businesses. WIE facilitates loans for women-owned businesses; to date, four such businesses have secured loans. A woman-owned beauty parlor in Mazar-e Sharif that employs two other women is a recent beneficiary of a 50,000 afghani (approximately \$760) WIE-facilitated loan.⁵⁶¹

WIE supported the development and launch of a mobile application—developed by three women—to help combat street harassment, which several leading Afghan women last quarter told SIGAR was an impediment to employment. WIE representatives also met with the MOI's cyber security and mobile crime departments to discuss collaboration opportunities including information sharing to prevent future occurrences of street harassment.⁵⁶²

Promote's Women in Government (WIG) program continued the training of 106 interns in a civil-service curriculum. WIG recently launched the training for the second cohort of 360 interns. As of October 2016, 10 out of the 16 interns from the pilot cohort are going through the application process for positions with the Ministry of Public Works and the Administrative Office of the President. Five out of the 16 pilot interns were employed in the civil service—one has since resigned for family reasons—at grades 5 and 6 (the civil

service is organized on an eight-point scale with grade 1 being the highest rank). WIG has received 6,000 applications for a new tranche of internships. Recently, a WIG-partner ministry was unable to provide adequate security for two WIG-sponsored interns, prompting WIG itself to provide security support until the Afghan ministry finalizes its own security contract.⁵⁶³

The SMAF includes several short-term deliverables related to women's rights, including the requirement for an implementation and financing plan for the National Action Plan for Women, Peace, and Security approved at the end of 2015, with implementation starting by mid-2016; an anti-harassment regulation for improving working environments for public-sector women, to be issued by mid-2016; and dedicated violence-against-women prosecution units established in 26 provinces by December 2016.⁵⁶⁴ The Afghan government reported that it achieved the deliverable related to the implementation of the National Action Plan for Women, Peace, and Security. The budget for the first phase of the action plan, scheduled to run from 2016 to 2020, has been approved at \$51.5 million. The Afghan government, however, committed only \$11 million, leaving a \$39.5 million funding gap.⁵⁶⁵

At the October 2016 Brussels Conference, the Afghan government agreed to demonstrate progress in its National Action Plan for Women through annual reports in 2017 and 2018. Within this deliverable, Afghanistan committed to increase the percentage of female civil servants from the current level (using a 2015 baseline) by two percentage points in 2017 and an additional two percentage points in 2018. The Afghan government also agreed to establish special courts on violence against women in 15 provinces by December 2017 and the remaining provinces by December 2018.⁵⁶⁶

Dedicated violence-against-women prosecution units are also to be established and functional, including adequate staffing, in all 34 provinces by December 2017. The Afghan government committed to incrementally increasing the percentage of women serving as judges and prosecutors in these special courts and prosecution units. Finally, Afghanistan committed to launch a women's economic-empowerment plan by the first half of 2017 and produce an implementation report by 2018.⁵⁶⁷