Independent Joint Anti-Corruption Monitoring and Evaluation Committee

Special Report; Vulnerabilities to Corruption in the Afghan Attorney General’s Office

July 2017

HIGHLIGHTS

EXECUTIVE SUMMARY ........................................06
ORGANIZATIONAL FRAMEWORK OF THE AGO ......16
INTRODUCTION .....................................................14
AGO ROLE IN CRIMINAL PROCEDURE .................19
HUMAN RESOURCES AND ADMINISTRATION .......41
KEY FINDINGS .....................................................51
EFFECTING CHANGE ............................................54
RECOMMENDATIONS ...........................................57
ANNEX I: 2016 AGO ORGANIZATIONAL CHART .....61
ANNEX II: METHODOLOGY .................................64

Kabul-Afghanistan
# Table of Contents

ACRONYMS ......................................................................................................................... 3

I. EXECUTIVE SUMMARY ........................................................................................................... 4
   a) The Bottom Line ................................................................................................................. 4
   b) Key Findings ....................................................................................................................... 5
   c) Recommendations and Effecting Change ........................................................................... 12

II. INTRODUCTION ................................................................................................................... 12

II. ORGANIZATIONAL FRAMEWORK OF THE AGO ................................................................. 14
   a) Mandate ............................................................................................................................. 14
   b) Organizational Structure .................................................................................................. 15
   c) Conclusion .......................................................................................................................... 17

III. AGO ROLE IN CRIMINAL PROCEDURE ............................................................................ 17
   a) Detection of Crime .............................................................................................................. 18
   b) Investigation of Crime ......................................................................................................... 20
   c) Primary Court Proceedings ............................................................................................... 22
   d) Appeals and Final Decisions ............................................................................................. 24
   e) Prosecution of Corruption Crimes .................................................................................... 26
   f) Detention and Prisons ......................................................................................................... 29
   g) Defense Rights ................................................................................................................... 31
   h) Diversion of Cases ............................................................................................................. 34

IV. HUMAN RESOURCES AND ADMINISTRATION ............................................................... 41
   a) Education ............................................................................................................................ 41
   b) Hiring ................................................................................................................................. 43
   c) Pay and Performance ........................................................................................................ 45
   d) Monitoring and Oversight .................................................................................................. 47
   e) Planning and Budgeting ..................................................................................................... 49
   f) Conclusion .......................................................................................................................... 50

V. KEY FINDINGS ..................................................................................................................... 50
   a) Education and Licensing ................................................................................................... 51
   b) Appointments and Performance Management .................................................................... 51
   c) Cooperation and Case Management .................................................................................. 51
   d) Investigations ................................................................................................................... 52
   e) Court Proceedings ............................................................................................................. 52
   f) Sentences, Enforcement, and Detention ............................................................................ 53
   g) Legal Representation and Awareness ................................................................................ 53
h) Security and Facilities.......................................................... 53
i) Organizational Reform, Planning, and Budgeting ...................... 53
j) Oversight and Complaints ...................................................... 54
VI. EFFECTING CHANGE.................................................................. 54
k) Reform Plans ........................................................................ 54
l) Governance Structures ............................................................ 55
m) Human Resources .................................................................. 55
n) Legal Structure ....................................................................... 55
o) Financial Resources ................................................................. 55
p) Monitoring and Evaluation......................................................... 56
VII. RECOMMENDATIONS.............................................................. 57
ANNEX I: 2016 AGO ORGANIZATIONAL CHART ............................. 63
  1. DAG for Finance and Administrative Affairs .......................... 63
  2. DAG for Investigative Affairs ................................................ 63
  3. DAG for Judicial Prosecutions ................................................. 63
  4. General Department of Prosecutor’s Office of Internal and External Crimes 64
  5. DAG of AGO in Military Affairs .............................................. 64
  6. DAG for EVAW, Juvenile, and Human Rights .......................... 65
ANNEX II: METHODOLOGY ............................................................ 66
ACRONYMS

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACJC</td>
<td>Anti-Corruption Justice Center</td>
</tr>
<tr>
<td>AGO</td>
<td>Attorney General Office</td>
</tr>
<tr>
<td>AIBA</td>
<td>Afghanistan Independent Bar Association</td>
</tr>
<tr>
<td>AIHRC</td>
<td>Afghanistan Independent Human Rights Commission</td>
</tr>
<tr>
<td>ANP</td>
<td>Afghan National Police</td>
</tr>
<tr>
<td>ANPDF</td>
<td>Afghanistan National Peace and Development Framework 2017 to 2021</td>
</tr>
<tr>
<td>CPAU</td>
<td>Cooperation for Peace and Unity</td>
</tr>
<tr>
<td>CID</td>
<td>Criminal Investigations Department</td>
</tr>
<tr>
<td>CBR</td>
<td>Capacity Building for Results</td>
</tr>
<tr>
<td>CSC</td>
<td>Civil Service Commission</td>
</tr>
<tr>
<td>DAG</td>
<td>Deputy Attorney General</td>
</tr>
<tr>
<td>EUPOL</td>
<td>European Union Police Mission</td>
</tr>
<tr>
<td>EVAW</td>
<td>Eliminating Violence Against Women</td>
</tr>
<tr>
<td>FINTRACA</td>
<td>Financial Tracing and Analysis Center of Afghanistan</td>
</tr>
<tr>
<td>HOO</td>
<td>High Office of Oversight and Anti-Corruption</td>
</tr>
<tr>
<td>IDLO</td>
<td>International Development Law Organization</td>
</tr>
<tr>
<td>ILFA</td>
<td>International Legal Foundation Afghanistan</td>
</tr>
<tr>
<td>INL</td>
<td>Bureau of International Narcotics and Law Enforcement Affairs (United States)</td>
</tr>
<tr>
<td>IWA</td>
<td>Integrity Watch Afghanistan</td>
</tr>
<tr>
<td>IARCSC</td>
<td>Independent Administrative Reform and Civil Service Commission</td>
</tr>
<tr>
<td>JSSP</td>
<td>Justice Sector Support Program</td>
</tr>
<tr>
<td>NLTC</td>
<td>Independent National Legal Training Center</td>
</tr>
<tr>
<td>MCTF</td>
<td>Major Crimes Task Force</td>
</tr>
<tr>
<td>MEC</td>
<td>Independent Joint Anti-Corruption Monitoring and Evaluation Committee</td>
</tr>
<tr>
<td>MMVCA</td>
<td>Ministerial Vulnerability to Corruption Assessment</td>
</tr>
<tr>
<td>MOD</td>
<td>Ministry of Defense</td>
</tr>
<tr>
<td>MOF</td>
<td>Ministry of Finance</td>
</tr>
<tr>
<td>MOHE</td>
<td>Ministry of Higher Education</td>
</tr>
<tr>
<td>MOI</td>
<td>Ministry of Interior Affairs</td>
</tr>
<tr>
<td>MOJ</td>
<td>Ministry of Justice</td>
</tr>
<tr>
<td>NDS</td>
<td>National Directorate of Security</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-Governmental Organization</td>
</tr>
<tr>
<td>NPA</td>
<td>National Procurement Agency</td>
</tr>
<tr>
<td>SAO</td>
<td>Supreme Audit Office</td>
</tr>
<tr>
<td>SMAF</td>
<td>Self-reliance through Mutual Accountability Framework</td>
</tr>
<tr>
<td>UNODC</td>
<td>United Nations Office for Drug and Crime</td>
</tr>
<tr>
<td>MVCA</td>
<td>Vulnerability to Corruption Assessment</td>
</tr>
</tbody>
</table>
I. EXECUTIVE SUMMARY

a) The Bottom Line

The AGO has historically been perceived as one of the most corrupt organizations in Afghanistan

Weak rule of law has been identified as the main reason for corruption in Afghanistan and corruption in the AGO has been identified as a major contributing factor. The starkest observation from this MMVCA is the dire state that the AGO was allowed to degenerate. In the past, bribery, patronage, nepotism and deliberately weak oversight practices were the status quo. These practices were exacerbated by organizational ineffectiveness, including a poor organizational structure, a lack of resources, and weak capacity.

The new Attorney General has begun to implement a number of positive changes to address past deficiencies

Since the appointment of His Excellency Mr. Farid Hamidi as Attorney General in April 2016, there have been a number of positive changes at the AGO that apparently reduced corruption and improved public confidence. Changes and recent reforms in AGO are listed below based on official statements of AGO.

Dealing with public complaints by the Attorney General, increase of budget and salary of the prosecutors, establishment of the Anti-Corruption Justice Center (ACJC) according to Presidential Decree # 53 dated Jun 30th, 2016, recruitment and transfer of top officials (around 40 chiefs of prosecution offices of the capital and provinces having bachelor and master degrees according to order # 2610 dated May 27th, 2016, improved Monitoring and Evaluation mechanisms, and conducting frequent provincial trips to monitor the performance of prosecution office; establishment of public complaints boxes in the capital; controlling attendance and expelled 68 professional and administrative staff of AGO on charges of absenteeism; expelled 12 professional and administrative staff of AGO on charges of taking bribe; the implementation of a merit-based recruitment process; developed plans to provide new facilities, created a new deputy attorney general office in AGO’s Organizational Structure(Tashkiet) to eliminate violence against women based on the Presidential Order #1550 dated Aug 10th, 2016, created elimination of violence against women and juvenile departments in 33 provinces based on AGO’s Organizational Structure (Tashkiet) 2016, and recruitment of professional female staff in 23 provinces to spearhead elimination of violence against women, recruitment of 9 women in grades 1 and 2 as chiefs of prosecution offices, transfer of unprofessional prosecutors, proposed amendments that should be made in AGO law, proposed change in AGO’s Organizational Structure (Tashkiet), launched highly competitive exams to hire qualified cadre, signed Memorandum of Understanding with related government institutions to employ the above-mentioned achievements as initial steps to reform the administration, fight against
administrative corruption and improve transparency and accountability.

**Despite recent progress, MEC has identified a number of recommendations to further reform the AGO, reduce corruption and increase organizational effectiveness**

In another positive step, the Attorney General agreed MEC to conduct an assessment of the vulnerabilities to corruption (VCA) in the AGO to identify the underlying factors leading to corruption and ineffectiveness at the AGO with a view to using the results as a framework for future action. MEC has identified a number of recommendations to address vulnerabilities to corruption and organizational ineffectiveness. The highest priority is the completion of the AGO’s five-year strategy, introduction of amendments to the Law on Structure and Authority of the AGO to set the framework for reform, and the development and implementation of a CBR plan as the mechanism for delivering reform. The most important recommendation for donors is the establishment of a mechanism to ensure that support to the AGO is provided in a comprehensive and coordinated manner consistent with the plans and priorities of the AGO.

The six month delay in the publish of this Special Report is result to MEC’s desire to complete the accurate data and to address all the concerns raised by the AGO office as a ground for the future cooperation in finding appropriate solutions to the issues addressed in the recommendations.

b) Key Findings

**MEC’s Special Report was a comprehensive effort completed with the participation of all justice sector stakeholders**

The VCA was initiated in October 2016, with a desk study setting out the legal framework of the AGO and criminal procedure in Afghanistan. This was supplemented by primary data collection consisting of over 230 interviews in Kabul and a number of provinces with AGO officials, law enforcement officials, defense attorneys, end users, legal aid providers, legal educators, and detention centers.

**Bribery and interference are the main forms of corruption in the AGO**

Despite some recent success in curtailing corruption, bribery still occurs at all stages of the criminal process. In the past, bribes were openly exchanged and some prosecutors had brokers outside of their offices to collect money. The practice of openly receiving bribes has reportedly stopped since AG Hamidi was appointed, but reports of bribery still exist. The abuse of process, prison, and the criminalization of civil cases are examples for reasons sometimes used to extract bribes. Some judges and governors have reportedly colluded with prosecutors to receive bribes. The lack of awareness of the justice system and legal rights contributes to corruption. Neither the AGO nor the MOJ has conducted any significant public awareness campaigns to inform the public of their legal rights.
Prosecutors face constant interference from government officials, MPs, elders, warlords, and the public. Long lines of people can be observed outside many prosecutors’ offices and the unfettered interaction between the public and prosecutors creates vulnerabilities to corruption. In addition, government institutions often do not cooperate or share information with prosecutors conducting investigations, sometimes because they are involved in the corruption being investigated.

The AGO’s interaction with detection agencies can be strengthened to enhance effectiveness in the investigation of crime

The police are responsible for detecting (preliminary investigation) crime, and the AGO is responsible for investigating and prosecuting cases. There is overlap between the police and AGO function and the relationship is sometimes marked by poor cooperation. Poor cooperation has been attributed to personal and political issues as well as a desire to protect illicit revenue streams. Justice institutions have reported a higher degree of cooperation in the provinces visited for this assessment. The AGO and MOI have reportedly recently concluded an agreement to enhance cooperation but effective implementation will be key to improving the relationship. Criminal cases are also referred to the AGO by the NDS, HOO, SAO, FINTRACA, NPA, AIHRC, and MOF, but there is a lack of transparency regarding the outcome of many cases referred by these agencies. The AGO is legally required to report back to some agencies, but not all, regarding the status of the case. While the AGO has provided updates to some agencies, several agencies report that they are unaware of the outcome of cases that have been submitted to the AGO. For its part, the AGO claims that the cases sent to them by some agencies do not have sufficient detail to initiate an investigation. Regardless, the lack of transparency in the handling of cases provides room for corruption and can be improved by implementing clear standards for referring and reporting on cases.

Current case management practices make it difficult to track cases thereby introducing a vulnerability to corruption

Detection agencies refer cases to the AGO in the provincial center, district, or zone that they are detected. Cases can be transferred by the AGO between provinces or districts, but there has been a lack of transparency in how this is done and there are reports that bribes have been paid to transfer cases and that cases do not proceed after being transferred. Prior to the appointment of AG Hamidi, cases were transferred to Kabul on the basis of a simple petition, which was signed by the Attorney General. AG Hamidi has introduced a more transparent procedure whereby requests to transfer cases to Kabul must be accompanied by a recommendation from the relevant prosecutor and are considered by a committee before the Attorney General decides. Transfers between districts are approved by the Provincial Appeals Prosecutor’s Office and it is unclear whether a similarly transparent process is being utilized across the country. Cases are only logged in the electronic case management system after an investigation has been completed thereby reducing
accountability by making it difficult to track cases. In addition, the electronic case management system is not used in the districts or by some agencies that refer cases to the AGO.

**Criminal statistics raise concerns about backlogs, case tracking, and underreporting**

The AGO recorded 32,667 criminal cases in 1394, sent 15,933 to the primary court and closed 1,558 leaving a 15,000 difference between cases received and cases disposed. In the same year, the courts reported receiving 17,265 cases of which 14,148 were disposed. This raises questions about consistency in reporting and suggests that there is a substantial backlog of cases.

Nevertheless, according to an official report of AGO, in addition to closed cases closed and/or referred to court; there are a number of cases investigations of which have been either delayed, are still under investigation or referred to other institutions. It can change the number of above-mentioned 15000 cases.

Based on the official report of AGO, in all, 34,284 criminal cases have been documented from Dec 22nd, 2015 to Dec 20th, 2016. The breakdown is as follows:

- 12,811 cases have been referred to primary court and signed off.
- Around 9,492 cases have been heard by appellate court.
- Around 11,204 cases have gone through all stages of court procedures and finalized.
- 1314 cases have been closed due to non-existence of evidences.
- Around 25,777 cases are being investigated.

In all, the number of cases that has been received from Dec 22nd, 2015 to Dec 20th, 2016 totals 42,638. Based on AGO’s official report, the difference between the figures was because some cases remained under investigation from time long ago.

Generally, crime has been underreported, in part, because of the prevalence of an informal justice system of local Jirgas, Shuras and elders to resolve disputes. The informal system is widely used because the formal system does not serve, or is too far from, many districts. The formal system is perceived to be corrupt and open to manipulation, and is time consuming and expensive. Other factors include powerful people who dissuade victims from registering cases, the perceived ineffectiveness in prosecuting corruption, and underreporting by government organizations that are implicated in corruption.

**Investigations conducted by the AGO can be enhanced to better ascertain the facts of the case**

Prosecutors often lack the capacity to investigate cases and prepare indictments based on weak evidence, sometimes out of fear of being accused of corruption for closing a case.
Investigating prosecutors reportedly focus on incriminating evidence and ignore exculpatory evidence. The absence of forensic resources and transportation contribute to poor investigations. These challenges reduce the effectiveness of the AGO in prosecuting corruption, among other crimes.

Court proceedings can be improved to ensure a fair hearing and reduce vulnerabilities to manipulation

After a case is investigated it is referred to the trial prosecutor who prepares the indictment. Court hearings are usually held on a day notice and many last only five to 15 minutes. Prosecutors are sometimes not present in court and are often not prepared, proceed with incomplete documents, or make vague arguments when they do attend. Once a judgment has been made it is sent back to the AGO who may appeal the decision. Appeals to the Supreme Court are all routed through AGO headquarters by regular post taking up to three weeks to arrive, which introduces delays to the proceedings. Prosecutors reportedly use aggravating factors to threaten people with prison to extract bribes. Some judges are reported to meet prosecutors outside of formal hearings contributing to corruption vulnerabilities. According to AGO’s statements, the Attorney General has, just recently, ordered that cases sent to courts shall be thoroughly monitored and supervised which can be effective in addressing these challenges.

The ACJC has had success in prosecuting corruption cases, but still faces challenges

The ACJC was established to enhance the coordination in prosecuting high ranking officials and major corruption crimes. To date, the ACJC has received over 50 cases related to a variety of government officials and has tried six. Although convictions were secured, there has been criticism that the ACJC is focusing on minor corruption crimes. There is also concern that the commitment to screen all prosecutors with polygraph tests will not be implemented. The ACJC faces challenges with cooperation from government agencies, and requires equipment and technical assistance.

The use of detention and imprisonment has been identified as a tool to extract bribes

Police can arrest and detain suspects for up to 72 hours before they are transferred to the AGO. The investigating prosecutor has the discretion to release the person, but it is reported that this discretion is sometimes used in an effort to extract bribes from detainees to secure their release. There are also reports that prosecutors and police chiefs have ordered the temporary release of prisoners on “vacation” with many not returning to serve out their sentence. The Attorney General has reportedly issued direction to justice officials to end this practice, with some reported success in curtailing “vacations.” The AGO is responsible for the supervision of detainees and prisoners, but is hindered by the underutilization of the electronic case management system. Furthermore, the AGO is not legally required to report to courts on the enforcement of their decisions, thereby removing
a layer of accountability and oversight.

The role of defense attorneys can be strengthened, but is itself vulnerable to corruption

Defense attorneys complain that defendants are not informed of their rights, that defense attorneys are not present for every stage of the criminal process, and that confessions are obtained under duress. Defense attorneys feel their role is often symbolic and that courts regularly do not consider their arguments. Some provincial defense bars report good relationships with the AGO, which is attributed to the appointment of head prosecutors with defense experience. Defense attorneys generally have good access to prisoners and space is provided at the prisons, but the rooms are often in poor condition and are not private. Some clients have reported that prosecutors ask them to pay bribes rather than hiring a defense lawyer. In addition, some defense lawyers act as a go between for their client and the AGO or judges and AIBA has revoked some defense attorney licenses for bribery. Most accused require legal aid, which is provided by a mixed-system of the MOJ, non-governmental organizations, and AIBA. The AIBA lawyers are required to provide pro bono representation in three criminal cases every year, but most do not. Legal aid providers face challenges providing representation in the districts.

Inadequate security, facilities, and resources reduce the effectiveness of the AGO

Many prosecutors live in areas with fragile security and many districts are too unsafe to visit. AGO offices have been attacked and staff have been killed and continually receive threats. Prosecutors lack appropriate facilities and conduct interrogations in rooms with several other people. In addition, prosecutors working in the districts do not have accommodation and office space provided on the district governor’s compound can lead to interference. Offices also lack computers, internet access, electricity, appropriate furniture, toner for printers, stationary, and fuel for generators. The AGO plans to build offices and accommodation in the districts to remedy the absence of facilities.

Structural changes to legal education are required to increase the capacity of prosecutors

Prosecutor capacity is a central factor in the weak administration of justice in Afghanistan. The law requires prosecutors to have a degree in law or sharia, but this requirement has led to inconsistency in the application of the law and inadequately educated lawyers. The sharia curriculum has been criticized for insufficiently incorporating law courses, and vice-versa. Furthermore, the law curriculum blends many political science courses in the first two years and has been criticized for being outdated and impractical. There is an initiative underway by Kabul University and MOHE to separate political science from law and to update the law curriculum, but universities outside of Kabul have not been consulted. Concerns have been raised about the number of law faculties that are allowed to operate in Afghanistan. The large number of schools graduate more students than the
market can absorb and leads to courses being taught by underqualified professors.

The Stage course has failed to deliver comprehensive skills to law graduates

The insufficiency of practical skills training contributes to capacity challenges for prosecutors. Prosecutors are required to complete the Stage course or have three years of legal experience before they can be hired as prosecutors. The NLTC was established to provide Stage training, but it is only available in Kabul and demand has outstripped available spaces. This has led to a number of lawyers being licensed without completing the course. Alternate Stage courses have emerged over the past few years resulting in the further fracturing of legal education. Continuing legal education at the AGO has not been comprehensive. The AGO’s Professional Training Institute has recently engaged in an institutional learning needs assessment. Once completed, learning interventions will be designed and delivered.

Hiring and human resources management practices create vulnerabilities to corruption

The AGO hires prosecutors without the involvement of the CSC, which is required in the hiring of other government officials. As such, there is an absence of oversight in hiring prosecutors. In the past, this has allowed for non-competitive processes, patronage, and bribes marked by frequent interference from MPs, and high-ranking government officials. More recently, the AGO has implemented a merit-based hiring process that utilized an entrance exam. Nevertheless, there are some allegations in regards to external interventions and lack of merit-based appointments that have, at times, challenged the process of administrative reform.

The AGO does not use standard performance management tools extensively once officials are hired. Employment contracts do not include detailed terms of reference, performance plans are not in wide use, and discipline is not enforced, sometimes because people have strong connections. Low salaries has been one of the main drivers of corruption and many prosecutors have outside paid activity in the justice sector creating conflicts of interest. The AGO has recently secured the budget to increase prosecutor salaries but needs to ensure that increasing will be based on performance.

Attendance is also an issue across the AGO. One provincial office visited for this MVCA Report had very few people in the office after 1 p.m., while some prosecutors in another province did not return after lunch. One office had a unit head that was unexplainably absent for two days and a district prosecutor who shows up two days a week. Officials in Kabul routinely come to work late and one office with eight prosecutors only had one in attendance on the day of the assessment. Even when prosecutors do show up, there are many who do not appear to be working and have little observable activity. In addition, officials are deployed outside of their assigned positions and are not tracked resulting in reduced transparency and accountability.
Based on the official report of AGO, the monitoring mechanism of AGO has been improved as more than a 68 professional, administrative and services staff of AGO have been expelled due to absenteeism after close monitoring of their attendance.

**Strengthened oversight of prosecutors is central to fighting corruption at the AGO**

One of the largest deficiencies in fighting corruption has been the absence of oversight of the investigation and prosecution of crimes. Previous AGO leadership purposefully weakened oversight structures and monitoring departments in some provinces only exist on paper. The Attorney General has recently strengthened the Control Office by replacing leadership and that based on AGO’s official report, a joint team composed of different offices of AGO continue to monitor the performance of other prosecution offices in the provinces, but there are many deficiencies that still need to be addressed. Herat’s prosecutor responsible for monitoring and evaluation reportedly never showed up in the office except to collect his salary. Monitoring of districts is nearly non-existent and those that have been monitored have shown irregularities, including missing cases and files, and discrepancies between case logs and reports sent to provincial centers. The AGO complaints department reportedly received bribes to register complaints in the past. Previously, there were brokers outside of the AGO routinely took money to get the signature of the former Attorney General on petitions. The Attorney General has effectively ended this practice by meeting directly with petitioners every Monday which has eliminated brokers and increased public confidence. Finally, although the Attorney General has registered his assets, other prosecutors do not register their assets as required by law.

**The AGO’s organizational structure can be streamlined to maximize effectiveness**

The AGO’s structure has not been significantly modified for several years and key functions are spread across different subject areas thereby diluting the core skills required by prosecutors.

Based on the official report of AGO, since the AGO’s structure is not standard and is not sufficient to the current tasks, the new leadership of AGO, after an in-depth study, has developed and proposed a new draft of AGO’s structure that increases the number of its staff to 8,000 in the next three years.

Planning is weak and there is insufficient link between plans and the budget and provinces are left out of both processes. Furthermore, the operation budget is not sufficient and development budget projects are limited because of weak capacity for designing and executing development plans. The AGO is currently developing a new AGO organizational law and will receive a larger operational budget in the coming year. Regardless, the proposed amendments in the law and improved budget are currently not sufficient to address all of the AGO’s needs.
c) Recommendations and Effecting Change

A number of activities can address vulnerabilities identified by this MMVCA Report

This MVCA Report has identified 53 recommendations to respond to the issues which have been identified. Recommendations relate to:

a) **Capacity**: providing better education for prosecutors, providing resources for better investigations, improving facilities, reforming organizational structures, and improving planning and budgeting;

b) **Cooperation**: strengthening the relationship and transparency in the AGO’s interaction with other agencies, encouraging cooperation from government agencies, improving case tracking, and reducing the reliance on detention and prison sentences;

c) **Accountability**: increasing transparency in hiring, enhancing security, enhancing due process in court proceedings, providing oversight of prosecutor activities, providing transparency for the informal justice system, enhancing representation and legal aid, and increasing legal awareness.

Effecting change must focus on implementation planning, resourcing, and oversight

Identifying corruption and solutions to address it in the AGO is not overly difficult. The real challenge rests with implementation. For effective implementation, the AGO needs to finalize current reform plans and support them with governance structures and transformational human resources from the CBR program. Legal amendments and the financial resources required for reform are also critical. Legal amendments to the Law on Structure and Authority of the AGO can be used as the vehicle to implement many of the procedural and organizational recommendations. Finally, close monitoring and evaluation is required to ensure that reform proceeds, as such MEC will implement a monitoring plan by the end of 2017.

II. INTRODUCTION

The rule of law is the foundation for any functional society. Unfortunately, the rule of law has lagged in Afghanistan allowing corruption to spread with near impunity. In IWA’s 2016 National Corruption Survey, 23 percent of respondents stated that weak rule of law was the main reason for corruption in Afghanistan.¹ Historically, the AGO has been perceived one of the most corrupt government organizations in Afghanistan with prosecutors named among the top three most corrupt government officials.² The impact of corruption at the AGO is detrimental to the rule of law given its importance to the justice system, as one senior judge stated, “Prosecutors are the heart of the human being. If there isn’t a good heart, then your body won’t function.”³
One of the starkest observations from this assessment is the dire state into which the AGO has been allowed to degenerate. This can be attributed greatly to the practices of past leadership. As stated by one senior justice official, “The former Attorney General had a team that only thought of corruption. Cases were solved based on deals without ever worrying about repercussions because corruption was tolerated.” The new leadership represented by the appointment of His Excellency Farid Hamidi as the Attorney General in April 2016, marks a break from the past. Mr. Hamidi is widely acknowledged as sincere and dedicated and his initiatives undertaken since his appointment include hearing complaints directly by the Attorney General from the public, increasing the salary and budget of prosecutors, establishment of Anti-Corruption Justice Center, transfer and appointment of senior staff (around 40 chiefs of prosecution offices in the capital and provinces having relevant bachelor and master degrees), improving monitoring and evaluation mechanisms, and conducting frequent provincial trips to monitor the performance of prosecution offices according to guideline of the deployed delegations to provinces and establishment of extra complaints boxes in the capital, controlling attendance and expelled 68 professional and administrative staff of AGO on charges of absenteeism, expelled 12 professional and administrative staff of AGO on charges of taking bribes, the implementation of a merit-based recruitment process, developed plans to provide new facilities, created a new deputy attorney general office in AGO’s Organization Structure (Tashkiel) to eliminate violence against women, created departments in 33 provinces based on AGO’s Organization Structure (Tashkiel) 2016, to fight violence against women and child abuse, and recruited professional female staff in 23 provinces to spearhead elimination of violence against women, recruitment of nine women in grades one and two as chiefs of prosecution offices, transfer of unprofessional prosecutors, proposed amendments that should be made in AGO law, proposed change in AGO’s Tashkiel, launched highly competitive exams to hire qualified cadre, signed Memorandum of Understanding with related government institutions to employ the above-mentioned achievements as initial steps to reform the administration, fight against administrative corruption and improve transparency and accountability. These initiatives appear to have already had an impact and many justice sector officials and observers interviewed for this assessment noted observable change since his appointment.

Despite these successes, there is much left to be done to truly reform the AGO. In this context, the Attorney General and MEC agreed to undertake a Vulnerability to Corruption Assessment (VCA) of the AGO. The VCA is aimed at systematically identifying factors that make the AGO susceptible to corruption and actions that can be taken to mitigate these. The MVCA was initiated in October 2016, with a desk study to develop the legal and policy framework for the AGO and its activities. This was supplemented by five-weeks of primary source data collection, including over 230 interviews in Kabul, Herat, Kandahar, and Balkh provinces with AGO officials, defense attorneys, end users, law enforcement agencies, legal aid providers, legal educators, and detention and prison
centers. The MVCA reviews the organizational and legal framework, criminal process, prosecutor and management capacity, cooperation amongst law enforcement entities, oversight, public awareness, adherence to legal rights, and necessary resources, among other areas.

It is worth noting that some respondents expressed frustration with the number of AGO assessments being conducted and the imbalance between assessment and implementation. There is an obvious need for coordination on the AGO reform agenda if there is to be any meaningful progress. The AGO and donors will need to establish the structures necessary to implement a plan that will truly reform the AGO, end impunity, and deliver justice for Afghans.

II. ORGANIZATIONAL FRAMEWORK OF THE AGO

The organizational structure of the AGO can have a significant impact on both its vulnerability to and its effectiveness in fighting corruption. Complex structures, overlapping mandates, and unclear lines of authority lead to weak transparency and accountability, allowing corruption to spread. In addition, having an inappropriate structure leads to inefficiencies that can affect the ability of the organization to deliver on its mandate with the resources which have been allocated. Unfortunately, the AGO’s structure has not been significantly adjusted for several years and is a result of ad hoc modifications (sometimes in response to donor priorities) outside the context of a comprehensive organizational assessment. Core functions such as investigations, trials, and appeals are spread across different subject areas, including narcotics, violence against women, military, corruption, and security. The orientation to specialized subject areas has diluted the core skills required by prosecutors and made the organization less effective. In addition, the deployment of staff does not line up with the AGO’s official Tashkiel and many prosecutors and administrative staff are working in areas that they have not been assigned to.

a) Mandate

The mandate and structure of the AGO is set out in the Law on Structure and Authority of the AGO, 2013. The AGO’s responsibility covers the entire spectrum of criminal prosecution, including the investigation of crimes, initiating charges, conducting trials, monitoring the criminal investigation process, the enforcement of court decisions, and detention centers. The AGO is operationally independent and attorneys are not allowed to be members of political parties while in office. The affairs of the AGO are organized and monitored by the AGO High Council which is chaired by the Attorney General, with participation of the Deputy Attorney Generals (DAGs), and Directors of Prosecution Directorates. The High Council approves strategies, plans, policies, procedures, and budgets, undertakes measures to educate, train, and enhance capacity, evaluates complaints, and recommends amendments to laws. However, the number of participants
and the composition of the High Council of the AGO has been identified as a vulnerability to corruption and may need an assessment and revision.

b) Organizational Structure

i. Divisions and Directorates

The AGO has five deputy offices, 2 directorates in Kabul, 38 appellate divisions in Kabul and the provinces, and 369 primary prosecution offices in districts.¹⁹

The DAG for Investigation leads and guides investigations and monitors decisions regarding detention.²⁰ The department includes the Directorate of Criminal Investigation responsible for investigating criminal cases, issuing warrants, and issuing orders to prosecute or dismiss cases.²¹ There is a central investigative department located in Kabul, as well as five Kabul zones, provincial offices and a prosecutor in each district.²² They generally do not handle cases related to narcotics, terrorism, Eliminating Violence Against Women (EVAW), juvenile, or corruption because those cases go to specialized units.²³ The Directorate of Anti-Corruption Prosecution Office falls under the Investigations Department²⁴ while stand-alone directorates exist for the Prosecution Office for Crime against Internal and External Security²⁵ and the Counter Narcotics Prosecution Office.²⁶ The DAG for Investigations is also responsible for the Directorate of Study and Research which provides legal advice to prosecution offices, prepares criminal statistics, drafts legislative documents, develops terms of reference for departments, and archives all decisions and case files.²⁷

The DAG for the Judiciary oversees the prosecution of cases and activities of the provincial appellate prosecution offices, and files appeals of appellate court decisions.²⁸ Directorates in Kabul inspect investigation papers and charge sheets, confirm or reject indictments, inform parties of the time and place of trial, takes part in trials, decides whether to appeal, and informs detention centers and the police of court decisions.²⁹ The Supreme Court Prosecution Office is located in Kabul and decides whether to appeal cases to the Supreme Court.³⁰ The Directorate of Monitoring on Detention Centers and Enforcement of Decisions monitors the enforcement of court decisions, prisons and detention centers, and complaints made
by detainees.\textsuperscript{31}

The DAG for Military leads military prosecutors, and makes determinations of whether to appeal military judgments.\textsuperscript{32} The Department replicates much of the organization structure of the AGO at large with investigating prosecutors, trial prosecutors, an anti-corruption unit, and prosecutors overseeing detention.\textsuperscript{33} Office previously was responsible for MOI, MOD and NDS, but now is only responsible for MOI. The DAG for EVAW, Juvenile, and Human Rights was established by Presidential Decree in July of 2016,\textsuperscript{34} but the Directorate of EVAW Prosecution Office has existed since 2008.\textsuperscript{35} The EVAW unit is responsible for all aspects of EVAW cases, including investigation, prosecution, trial, and appeals.\textsuperscript{36} The EVAW directorate has 30 prosecutors in Kabul and 33 other provincial EVAW units, varying in size between two and five prosecutors.\textsuperscript{37}

The DAG for Administration is responsible for the budget and structure of the AGO, organizing personnel affairs, providing financial and procurement support, training and capacity building. The department has Directorates for Planning and Policy, Human Resources, Administration and Finance, and Communication and Public Awareness.\textsuperscript{38} Provincial and district prosecution offices report their administrative activities to the relevant province or district governor.\textsuperscript{39}

\textbf{ii. Deployment of Prosecutors and Staff}

There are discrepancies regarding the number of prosecutors at the AGO with some reporting 2,913, while others report 2,052 (517 in Kabul and 1,535 in the provinces). There are just over 1,000 administration and finance staff (over 40 percent are in the provinces), and just over 1,097 lower grade staff (over 70 percent in the provinces).\textsuperscript{40} Provincial offices visited for this MVCA reported 65 prosecutors in Herat province comprised of 35 in the town and 30 in the districts,\textsuperscript{41} Kandahar reported 62 prosecutors to serve the town and its districts,\textsuperscript{42} and Balkh reported 64 prosecutors with 34 in the central office and two in 15 districts.\textsuperscript{43} The AGO reportedly has a three-year plan to increase the staff to over 8,000,\textsuperscript{44} however adding human resources to the current structure would likely result in the underutilization of those resources. The initial focus should be on restructuring the AGO and more effectively allocating its current resources and assessing its need for additional staff on the basis of the new structure.

One of the initial observations when assessing the AGO is that people are not deployed to where they appear on the Tashkiel and the AGO does not effectively track where its staff are.\textsuperscript{45} Herat, Kandahar, Balkh and Kabul Provinces reported that there are a number of prosecutors working from the provincial centers or Kabul due to a lack of security and accommodation, and to respond to workload imbalances.\textsuperscript{46} Administrative offices in the provinces seem to be particularly suffering. In Herat, only one of the five people assigned
to the districts are there. A similar problem exists in Kandahar, where they only have one person in the districts and Mazar where they have one administrative person in six different districts. Prosecutors are required to do their own administrative work since they do not have administrative support.

While there may be legitimate reasons for the allocation of prosecutors and other staff to areas outside of their assignment, the absence of a system to track these deployments reduces transparency and accountability and introduces abuse. For example, there are four Kandahar prosecutors working from Kabul based on the order of the previous Attorney General, but the Kandahar Appeals Prosecutor Offices is unaware of their activities. The new leadership in the Human Resources Directorate has recently ordered staff to use a tracking system, but it is too early to assess whether this will be successfully implemented.

a) Conclusion

As noted, the AGO is aligned according to criminal subject matter with functional areas disbursed across these areas. This distribution requires each unit to have self-contained expertise in investigation, trial prosecution, and appeals, along with the administrative structures to support those activities. This separation creates an uneven and less streamlined organization leading to inefficiencies, lower capacity, and workload imbalances, all of which contribute to vulnerabilities to corruption. There are also concerns that the creation of the DAG for EVAW, Juvenile, and Human Rights was completed by Presidential Decree as opposed to the Law on Structure and Authority of the AGO, which establishes the other departments of the AGO. The AGO should consider reforming its structures along functional lines to streamline its operations and strengthen its core capacity. Subsequently, the AGO will need to reassess its Tashkiel to ensure that the deployment of its staff corresponds to the needs of the organization and that lines of accountability are clear and transparent. The AGO itself has acknowledged that structural changes are required, stating in its previous five-year plan that it would assess and merge AGO offices to avoid duplication, however this has not transpired.

III. AGO ROLE IN CRIMINAL PROCEDURE

The AGO has a central role in the criminal process and is responsible for the investigation and prosecution of crime. Prosecutors lead the criminal case and represent the indictment in court playing a critical role between law enforcement agencies and the courts. When police detect a crime, they must conduct a preliminary investigation within 72 hours and forward the case to the AGO investigative directorate for further investigation. Cases are sent to another directorate of the AGO for prosecution in the primary court once an investigation is completed.
The power prosecutors wield creates a significant opportunity for corruption. Corruption in the form of bribes and interference has been reported at all stages of the criminal process. Many factors contribute to corruption inside the AGO, such as a lack of legal awareness, and conspiring defense attorneys. Other factors contributing to the ineffectiveness of the AGO provide the ground for impunity. These include weak cooperation with law enforcement agencies, case tracking and management practices, a lack of facilities, transportation, and other resources, manual processes, case backlogs, and infringement of defense rights.

a) Detection of Crime

i. MOI-CID

The police in Afghanistan are constitutionally responsible for the discovery of crimes. These duties include securing crime scenes, collecting evidence, identifying victims and witnesses, taking statements, and arresting suspects. The police conduct the initial investigation on their own, but must notify the prosecutor within 24 hours after the detection of the crime. Evidence must be submitted to the AGO within 72 hours, but conforming to this timeline has been identified as a major challenge. MOI-CID enters all of their information into a shared electronic case management system when they make an arrest, but evidence is provided to the AGO manually despite the capability to upload documentation into the electronic system. The absence of email in the AGO presents a barrier to cooperation and the exchange of information.

There is overlap between the police’s detection function and the AGO’s investigative function, but a number of participants felt that the cooperation between the MOI-CID and AGO needs to be strengthened. Some felt that personal and political issues as well as a desire to protect illicit revenue streams were contributing to an unwillingness to cooperate. Standard operating procedures were completed with the support of the
European Union Police Mission in Afghanistan (EUPOL) in June 2016 to improve working relations, but do not seem to play a significant role in the relationship. More recently, the AGO and MOI have agreed to a guideline to enhance cooperation, but it is too early to assess its effectiveness. It is notable that cooperation in the provinces seems to be a lot better than in Kabul. Kandahar, Herat and Mazar officials across the justice sector identified a close and professional relationship. One official attributed their cooperation to prosecutors being relatively clean stating that “when prosecutors are clean, the relationship is close.”

Concerns have also been raised about MOI’s investigative capacity. Deficiencies relate to a lack of evidence storage, facilities for investigations, and forensic labs in the provinces, investigative reports with weak evidence, coercion of the accused, and falsified evidence. There were also concerns that resources are not being used wisely with one official pointing out that “We buy a ranger which is USD 35,000 but we need simple Corollas that cost USD 5,000.” Justice sector officials have noticed some improvement, particularly at the management level, but the officer level is not as strong.

The MCTF was established in 2009 under the MOI-CID to process major crimes including corruption, kidnapping, and organized crime. It had its powers reduced under former President Karzai, which hampered it for many years, but recently they have been re-empowered by President Ghani. MCTF has seen cooperation improve since the appointment of AG Hamidi.

ii. Other Detection and Referral Agencies

There are many other agencies that refer cases to the AGO. NDS investigates terrorism and organized crime and forwards information to the AGO or HOO, except for information related to high level officials which is submitted to the President. HOO is responsible for collecting evidence on corruption crimes and reporting them to the prosecutors’ office. SAO auditors have a duty to refer criminal cases to the AGO, including cases of officials that hinder the SAO or neglect to implement audit results. FINTRACA must forward a report to the AGO anytime it has reasonable grounds to suspect money laundering, terrorist financing, or a predicate offence. The NPA reports cases of potential procurement fraud, mostly related to fraudulent documents and collusion, to the AGO after some administrative review. The AIHRC investigates cases of human rights violations and refers cases to the AGO when they identify potential criminal activity. Tax evaders and taxation officer who misuse their position must be referred to the Attorney General. Customs officials are obliged to refer smuggling cases above AFN 20,000 for prosecution and any offense committed by a customs employee or customs broker.
i. Lack of Transparency in Cases Referred to the AGO

Transparency regarding the investigation and prosecution of cases referred to the AGO is the biggest challenge identified by detection and referral agencies. MOI has reported that they do not receive information about the status of the case once it is sent to the AGO because the AGO does not enter information into the system in a timely manner.\textsuperscript{81} The MCTF reported that they have submitted 516 cases to the AGO, but are only aware of the outcome of 203.\textsuperscript{82} The AGO is legally required to report back to the High Office of Oversight (HOO) and the Supreme Audit Office (SAO) regarding the status of cases.\textsuperscript{83} However the HOO reports that they have not been provided with sufficient detail regarding the outcome of a number of cases that have been sent to the AGO,\textsuperscript{84} and SAO reports that 273 of 309 cases sent since 2001 have not been finalized.\textsuperscript{85} A similar experience was reported by the NPA who has referred 90 cases to the AGO, but has only been advised of the outcome on one case despite regularly following-up.\textsuperscript{86}

Based on AGO’s official report, the list of corruption cases that has been referred to AGO by HOO since 2010 indicates 318 cases. The list specifically mentions the registered number of cases, receiving date and number of letters and the responses of AGO in which the action of AGO in regard to each case has been clearly mentioned.\textsuperscript{87}

In its defense, the AGO has indicated that the cases referred to them often do not include sufficient detail to warrant further investigation. Although there may be legitimate reasons for the cases not proceeding, such as a lack of evidence, or resources to proceed, the absence of transparency raises questions about AGO practices and provides room for corruption.\textsuperscript{88} At the very least, the AGO and referral agencies should work together to enhance transparency.

b) Investigation of Crime

i. Case Intake

The AGO recorded 32,667 criminal cases in 1394. The provinces with the most crimes were Kabul with 3,333 registered from the districts and zones and 682 in central departments. Herat with 2,187, Nangarhar with 731, Kandahar with 671, and Balkh with 441.\textsuperscript{89} Provinces estimated that they receive about 20 – 30 percent of their cases from the districts.\textsuperscript{90} The AGO reports that 15,933 cases were sent to the primary court, and 1,558 were closed for a variety of reasons including a lack of evidence.\textsuperscript{91} This leaves a substantial gap of 15,000 cases that have not been disposed of. End users interviewed for this assessment also complained about files that were lost by the AGO.\textsuperscript{92}
MOI-CID registers their cases directly to the AGO unit responsible for the investigation\textsuperscript{93} with police in Kabul going to their respective zone directly.\textsuperscript{94}

The AGO in Kabul receives cases from the provinces upon petition of a victim, an accused, or the prosecutor, usually when there is a perceived conflict of interest.\textsuperscript{95} The current Attorney General has introduced a process to increase transparency in the transfer of cases from provincial offices to Kabul. This process requires the related prosecutor to provide a justification for the transfer, which is reviewed by a committee in Kabul which then makes a recommendation to the Attorney General. This process does not seem to be implemented in the provincial Appeals Prosecution Offices who approve transfers of cases between districts. This gap introduces a vulnerability to corruption and one end-user reported that his case was transferred after the prosecutor solicited a bribe.\textsuperscript{96}

Case tracking and management is based on a manual form that is used for every stage of the process. The form has information related to the crime, arrest, defense lawyer, detention, and courts.\textsuperscript{97} A memorandum of understanding between the AGO, the Supreme Court, and MOI among other agencies, requires all detection and judicial organs to enter information of every criminal case into the database otherwise they are to be rejected.\textsuperscript{98} However, the AGO logs cases manually when they are received and enters them into the electronic case management system after an investigation is completed.\textsuperscript{99} Other detection agencies send their cases to the AGO Correspondence Unit who then logs the case into the case management system.\textsuperscript{100} AGO districts and some referral agencies such as the SAO do not utilize the case management system,\textsuperscript{101} which reduces transparency and accountability.

\textbf{ii. General investigation}

After receiving a case, the AGO is responsible for investigating\textsuperscript{102} collecting evidence, overseeing experts, questioning the accused and witnesses, and instructing the police.\textsuperscript{103} The investigation must be completed within ten days for a petty crime (obscenity), 27 days for misdemeanor, and 75 days for a felony, but this can be extended for a period of up to 90 days for misdemeanors and for 180 days for a felony if the accused is not being detained.\textsuperscript{104} Many respondents felt that the timelines are not sufficient\textsuperscript{105} and end users complained about how long investigations took.\textsuperscript{106}

Once the investigation is completed, the investigating prosecutor completes a charge sheet containing a description of how the crime was committed, mitigating and aggravating factors, documents proving the crime, and a statement of detention duration.\textsuperscript{107} There is general opinion that prosecutors are preparing indictments on very weak evidence, or simple allegations.\textsuperscript{108} One lawyer shared an example where his client was convicted of
murdering his wife based on his father-in-law’s accusation, but his wife was later found alive.109

iii. Investigative Challenges

Many believe that the AGO does not have the capacity to conduct investigations,110 with one AGO official responsible for overseeing investigations stating that over 50 percent of cases are not investigated properly.111 There is also concern that prosecutors move cases forward without evidence because they fear being accused of corruption if they close the file.112 Prosecutors point to an absence of forensic resources, such as forensic labs, fingerprint capabilities, ballistics, and experts, as part of the reason for the weakness in investigations.113 Forensics and drug samples sent to Kabul take more than a month to receive results.114

The absence of transportation was widely cited as a problem in the work of the AGO. Prosecutors complained that they cannot go to districts, crime scenes or detention centers to conduct investigations.115 The lack of transportation does not always mean a lack of vehicles. Some offices advised that they have vehicles, but no fuel or driver.116 One prosecutor stated, “It doesn’t look good when we show up for interviews on a bike.”117 There was also some resentment expressed in relation to other units that have vehicles because of donor support. For example, one prosecutor pointed out that “the head of EVAW prosecution office moves around in her own armored vehicle and we have one vehicle for all our prosecutors.”118 While female prosecutors face particularly significant challenges in exercising their duties, the uneven distribution of resources has caused frustration within some prosecutor offices.

c) Primary Court Proceedings

i. Preliminary Procedures

After a case is investigated, the charge sheet must be referred to the trial prosecutor’s office for filing an indictment.119 When the trial prosecutor gets the hardcopy case from the investigating prosecutor it is manually logged and assigned to a prosecutor who signs to acknowledge that they received it.120 The trial prosecutor can confirm the charge sheet, return the file, or dismiss the case.121 If the charge sheet is confirmed the prosecutor prepares an indictment and submits it to court and notifies the accused.122 There is no written procedure governing the processing of cases123 thereby reducing transparency and accountability and leaving room for misconduct.

The primary court judge conducts a preliminary assessment of the case and reports to a
panel of judges who rules whether to proceed, return for further investigation, or discontinue if there is no evidence of a punishable crime. The court does not electronically log the case until there is a decision at which point they upload the decision into the database. The court sometimes meets the family of the accused because the family wants to know about procedural issues or file motions. However, this practice is concerning as it happens off the record and provides an opportunity to influence judges.

The AGO reports that there were 15,933 cases at the primary stage in 1394 while the Primary Court reports that they received 17,265 of which the rejected 1,138 and heard 13,010. There were 3,171 cases heard in Kabul, 927 in Balkh, 600 in Kandahar, and 1,075 in Herat. Based on interviews, the caseload for prosecutors ranged from 400 per year in Herat, approximately 200 in Kabul and Mazar, and 65 per prosecutor in Kandahar.

ii. Trial

Criminal cases are generally heard by the court where the crime occurred or where the accused was arrested or lives, but may be transferred by the Supreme Court on the recommendation of the Attorney General. The appeal court can decide to transfer cases between districts.

Primary courts generally sit two days of the week (Saturday and Tuesday). The trial proceeds with three judges and the prosecutor and the accused present. Notice of hearings is a major issue for prosecutors and defense attorneys who often only get notice the day before a hearing leaving them little time to prepare. Under the law, the judge questions the witness followed by questioning from the prosecutor and defendant. The prosecutor and the accused speak after hearing witnesses. Trials are open unless considered necessary due to ethical reasons, family secrets, or preservation of public order. In practice, courts do not spend a lot of time on cases. In the provinces, the court hears anywhere between 10 to 20 cases a day with most hearings lasting five to 15 minutes and complicated cases lasting 30 minutes to two hours. Kabul reported that hearings last an average of two hours.
Both judges and defense attorneys complained that the prosecutors proceed with insufficient evidence and incomplete documents. One judge noted that the arguments given by the prosecutor in many cases lack evidence, are vague, and sometimes unrelated to the case. In addition, several justice sector officials complained that prosecutors are not always present in court and prosecutors are not prepared when they are.

i. **Sentencing**

An accused cannot be convicted if there is doubt in reasons or evidence, or based on evidence not presented in court. Court decisions must include reasons and grounds for a sentence. The sentence is openly announced before the parties are dismissed, or the attendees are notified of the time of announcement. Decisions are final when both parties agree on the decision or the time for appealing has expired. Final decisions must be published.

Crimes are classified into felony, misdemeanor and obscenity offences. Felonies are sentenced to death, continued imprisonment (16-20 years) or long imprisonment (five to 15 years). Misdemeanor offenses are sentenced to imprisonment of three months to five years, or cash fine of more than AFN 3,000. Obscenity offenses are punished by imprisonment of 24 hours to three months, or cash fine of up to AFN 3,000. The court can order greater penalties where there are aggravating factors including corruption. Capital punishment requires a unanimous vote by the Supreme Court and Presidential approval. A student, teacher or breadwinner sentenced to less than three years can request community service and courts may suspend a two-year prison sentence or fine under AFN 24,000 for three years.

Defense attorneys felt that alternatives to prison are not considered so that bribes can be extracted. They also accused prosecutors of using aggravating factors to threaten people with prison even pursuing prison in obscenity cases. One scheme reportedly involves telling the accused that they can pay a bribe for a smaller penalty or by telling them that they have been sentenced to ten years when they have been sentenced to one year and taking bribes to “reduce” the sentence.

d) **Appeals and Final Decisions**

i. **Court of Appeal**

Overall, the AGO reports that 11,476 cases were appealed in 2015 while the Appeals Court reports 15,886 cases, of which 1,250 were rejected. Primary Court decisions
can be appealed for errors in the application of the law within 20 days. Provinces and Kabul zones appeal their own cases, but felony cases must be sent to the AGO’s Supreme Court Prosecution Office when the prosecutor confirms the verdict.

The Appellate Prosecution Office receives the manual file from the primary court prosecutor after the court renders a decision and an appeal prosecutor is assigned to review the case.

In practice, the prosecutor does not notify the defendant and the defense must enquire to find out whether there has been an appeal, which reduces transparency and diminishes the role of the defense attorney in protecting the rights of the accused. Another concern is that the appeal prosecution office in the province logs the case manually at the provincial office and there is no cross reference to see what was sent and what was received.

Three judges decide a case on appeal in the presence of the parties, but without witnesses when the previous proceedings were sufficient. Appeal courts may overturn, amend, confirm, or order further investigation but cannot increase the punishment when an appeal is filed by the accused and not the AGO. An appeal decision must include a summary of the primary court’s decision, the objection, assessment of statements, and analysis of the law. Similar to the Primary Court, prosecutors and defense attorneys only receive one or two days’ notice and hearings take between 20 minutes to one hour. Most people have defense attorneys or cases are rejected.

ii. Supreme Court

Appeals can be filed to the Supreme Court within 30 days when there is an error in law, or if the death penalty has been ordered. Overall, the AGO reports that 11,973 cases went to the Supreme Court. The AGO’s Supreme Court Prosecution Directorate reviews decisions of the appeals courts from across the country, including all felony cases and misdemeanor decisions that are not accepted by the appeal prosecutor. Appeals from the provinces are sent by regular post and can take up to 20 days to arrive. Once received cases are registered manually and the electronically and a prosecutor is assigned to develop arguments. The arguments are sent to a committee that recommends...
whether to proceed with the DAG making the final approval.\textsuperscript{184}

The Supreme Court conducts paper hearings, but will meet with the prosecutor informally to discuss the case if it is serious, which reduces transparency and introduces a vulnerability to corruption. The AGO does not inform the defendant of the appeal, but the “AGO can include the defendants statement because the defense statement does not change”,\textsuperscript{185} which again reduces transparency and diminishes the role of defense attorneys in safeguarding the rights of the accused. The court will refer cases for a revised verdict if the decision contradicts the law, the court made an error in interpretation, or did not have the authority to proceed. The decision may be confirmed if the deficiency does not substantially affect the ruling.\textsuperscript{186}

An appeal of an absolute decision of the Supreme Court is only allowed through revisions\textsuperscript{187} under specific circumstances, including when a murdered individual is later found alive, another person is convicted of committing the same crime, witnesses provide false testimony, new evidence, or the convict was not given the right to appear.\textsuperscript{188} In these cases, the Supreme Court may issue a decision confirming the objection, or refer the case to a lower court if it requires further investigation.\textsuperscript{189}

\textbf{iii. Enforcement}

Prosecutors and police are obligated to enforce decisions\textsuperscript{190} and imprisonment is enforced under the supervision of the prosecutor’s office.\textsuperscript{191} There is an office in the AGO responsible for enforcing and supervising the decisions of the courts who receive the completed cases in hardcopy from the investigations department. They have a committee that goes through the decision to identify what needs to be done and enter that information into the database. The unit is not legally required to report to the court on the outcomes of the case and do not interact with the court. Provinces and districts are responsible for monitoring enforcement of their own cases.\textsuperscript{192} The lack of engagement of the court in overseeing the enforcement of sentences removes a layer of accountability and oversight which opens a vulnerability to corruption.

Parole may be granted by the court if a person with exemplary behavior has served ¾ of their sentence.\textsuperscript{193} The President can reduce or pardon penalties\textsuperscript{194} except in cases of intentional murder, kidnapping, hostage taking, administrative corruption, drug trafficking, or repetitive crime.\textsuperscript{195}

\textbf{e) Prosecution of Corruption Crimes}

\textbf{i. Corruption Cases}
The Primary Court reports that they received 480 corruption cases from Kabul, 95 from Herat, 46 from Balkh, and 41 from Kandahar. The Appeals Court registered 260 corruption cases from Kabul, 57 from Herat, 86 from Kandahar, and 29 from Balkh. In Kabul, 54 anti-corruption prosecutors handle about nine cases each per year, while the sole Kandahar anti-corruption prosecutor had 30 cases, and two Mazar anti-corruption prosecutors averaged 15 cases. Cases relate to the misuse of power, embezzlement, bribery, and forgery involving officials from a variety of agencies including customs, Mastofyets, education, district governors, provincial council, and municipalities, but few prosecutors. In Kandahar, they reported convicting a prosecutor two years ago for letting murders go free, but they have not done any since. The chief prosecutor in Nangarhar has reportedly initiated investigations against seven prosecutors.

Based on AGO’s official report, many prosecutors involved in corruption have been already identified, out of which 12 of them have been fired, three prosecutors are being investigated and eight others, based on AG’s order, have been transferred to provinces. Additionally, based on the decision of the High Council of AGO, if any prosecutor is found guilty on charges of corruption, they are barred from working as prosecutor forever.

There is evidence that underreporting of corruption cases is a problem due to the perceived ineffectiveness of the AGO and other justice institutions. IWA’s 2016 National Corruption Survey found that corruption is not reported because 58 percent of respondents felt that it would be “useless” or detrimental to them. This was supported by a 2012 survey that found only 22 percent of bribe payers reported the incident which “rarely led to effective results.” Of the cases reported, 30 percent had no follow up whatsoever and in 18 percent the citizen was advised not to take the report any further.

The challenges in reporting corruption were witnessed by the assessment team when a woman from a district complained that the head of a faculty was soliciting a bribe to allow her into a program. She had registered complaints with many different organizations without response. Another government official cited a case of an investigation into five prosecutors that was stopped due to their connections, and one official noted the reinstatement of a prosecutor that was removed for taking bribes. Finally, the head of a provincial appeals court stated that government organizations are not reporting corruption because they are themselves involved in corruption.
ii. **ACJC**

The ACJC was established by Presidential Decree to facilitate coordination amongst the MCTF, AGO, and primary and appellate Courts to prosecute high ranking officials and major corruption crimes above a certain threshold. The AGO component of the ACJC has a Tashkiel of over 70 prosecutors who report to the ACJC Head Prosecutor who in turn reports to the Attorney General, but it is currently operating with approximately a third of its Tashkiel. All prosecutors were expected to undergo a polygraph test before they were hired, but none have and it is unlikely that they will because there is no agency available to administer the tests.

The ACJC receives cases from MCTF as well as other agencies and have received over 50 cases to date related to a variety of government officials and at least one prosecutor. To date, six cases have been tried at the primary court, two of which have been decided by the appellate court. The ACJC is also investigating AFN one billion embezzlement at the Ministry of Urban Development, a USD 80,000 bribery case involving a member of the MOI special forces, MOD contracts, MOI Generals, electronic identification cards, and a number of other cases in the Ministry of Public Health, Ministry of Commerce, and MOF tax department.

The first case was prosecuted by the ACJC in November 2016 and resulted in a sentence of two years and six months against a prosecutor in the AGO’s military directorate who attempted to take a AFN 50,000 bribe to release an imprisoned police officer. The second case against a customer services chief at Azizi Bank resulted in a conviction and sentence of ten years and eight months for illegally transferring AFN 152,000 and USD 500 from one account to another. Both convictions were affirmed by the ACJC Appeals Court in December 2016. A trial held in December 2016 resulted in the conviction of Da Afghanistan Bank officials who embezzled AFN 24 million resulting in sentences ranging from two years to 19 years in prison. Two other trials held in January 2017 resulted in the conviction of the General Director of Policy and Strategy of MOI for a USD 150,000 bribe with a sentence of 14 years of imprisonment and the conviction of two non-government officials for usurpation of government lands.

Although convictions were secured, there has been criticism that the ACJC is focusing on minor corruption crimes among low-ranking officials despite a Presidential Order to prioritize large corruption cases. One apparent legal limitation is the requirement that prosecutions of ministers must be carried out by the Attorney General. Recently a panel reviewed criminal allegations against the Minister of Communications and Information Technology and sent their findings to the Attorney General. The minister was suspended from his position in January 2017, but the outcome of the investigation has not reported. Similar reviews of the former Ministers of Education and Defense were reportedly set-
Since its inception, the ACJC has faced some challenges. First, a Deputy Minister at MOI reportedly attempted to divert a case from the MCTF to the MOI Inspector General, but this was successfully resisted. In addition, there is a lack of cooperation from government agencies being investigated. The ACJC also has security concerns, and have requested vehicles, office equipment, detention center, investigating rooms, salary top-ups, and technical assistance.

**f) Detention and Prisons**

**i. Detention on Arrest**

There are approximately 28,000 people in 220 detention centers, and 36 prisons in Afghanistan. Pul-e-Charkhi prison in Kabul has the largest population with approximately 10,000. Herat has the second largest population with 2,594 prisoners including 430 detainees, Kandahar has 1,776 prisoners and Mazar has 740, including 135 in detention.

A person may be arrested by the police for a crime, in which case they may be held for up to 72 hours. At this stage detainees are held at the police station or police headquarters. There were complaints that police are aggressive and hold people longer than they are allowed, in part because of challenges in completing investigations within 72 hours. Surveys have also found that police officers receive bribes to prevent imprisonment or to speed up release.

**ii. Detention by Prosecutors**

Police must send a registry containing the reason for arrest and the primary statements of the arrested person to the prosecutor. The prosecutor will release the person or issue a detention order for seven days in misdemeanor cases and 15 days for felonies. Additional detention can be requested from court, but cannot exceed 20 days for a misdemeanor and 60 days for a felony. The discretion to release prisoners is underused, in part because prosecutors themselves do not want to be accused of taking a bribe, “They are willing to send that innocent person to jail, instead of being looked at as someone who has been bribed.” Prisoners being transferred into AGO custody are transferred to MOI detention centers and never forwarded to the Attorney General for investigation.
centers where they are entered into an electronic database.

Courts can order detention during the court proceedings up to 30 days during the primary court proceeding, another 30 days in the appeal proceedings, and 60 days during Supreme Court. Once the primary court has issued a decision the detainee is moved from detention to prison. MOI must hand the detainee over to the prosecutor’s office immediately when detention has expired or there has been an acquittal. MOI informs the AGO 15 days in advance by official letter when a detainee’s sentence is coming to an end. The AGO is reportedly good at responding, but there are times that they do not.

### Cooperation

Officials in the AGO and MOI Prisons and Detention report that they have a good relationship.

The Minister of Interior, Mr. Taj Mohammad Jahid and AG Hamidi signed a cooperation procedure within 28 pages between the police and AGO on May 28th, 2016 and ordered for its implementation. There was also a generally good relationship reported by legal aid and defense attorneys.

Legal aid providers come to prions to raise awareness and defense attorneys are allowed access to their clients. When visiting the prisons there are signs for AIBA and legal aid and there was a list of legal aid lawyers posted at the entrance of one prison. Space is provided for prosecutors and defense attorneys to interview clients and accused, but the rooms are not always in great shape which is consistent with the facilities overall. Defense attorneys meet their clients in a shared room where many defense attorneys are meeting.

### Abuse of Detention

There are several reports of detainees staying in detention too long and some prisoners complain that prosecutors have not completed their case in a timely manner. This was evident when prisoners were observed by the MVCA assessment team complaining that they were being detained without knowledge of the status of their case. Defense attorneys have also complained that the AGO does not implement court orders to release people and ask for guarantees when they are not required.
The use of detention has been identified as a tool to put pressure on accused to extract bribes. Defense attorneys advise that they are aware of clients that have paid bribes to be released. Bribes are also reportedly extracted by provincial and peace councils when their approval is required for the release of political prisoners.

Another area of abuse is the use of “vacations” for prisoners to be temporarily released. In the past, this privilege was being abused by prosecutors and chiefs of police who would order the release of a prisoner who would sometimes end up being gone for months or never coming back. This practice has reportedly been curtailed under AG Hamidi due to a letter he issued prohibiting the use of vacations.

v. Oversight of Detention

The AGO has units in the capital and provinces responsible for supervising prisons. They look at the health of prisoners, see if the files are complete, and ensure that no one is there illegally, but are hindered by a manual system and do not utilize the electronic case management system. The underutilization of the case management system reduces transparency, accountability and oversight of sentencing. This increases the vulnerability to corruption as it makes it easier for prosecutors to manipulate or hide information to solicit bribes from the detained individual. The oversight unit is obligated to prosecute anyone illegally detaining another person and have initiated 15 cases over the past two years in Kabul against prison officials who mistreated prisoners or did not inform them that their detention was ended. There were also occasions where the files are not available or are unclear and a prosecutor was imprisoned in Kandahar for that reason.

g) Defense Rights

i. Rights of the Accused

Police are obligated to advise the accused of their rights before an arrest, and prosecutors are obligated to do so before starting an investigation. The accused has the right to be informed of the accusation, receive descriptions of proceedings, question witnesses, prepare a defense statement, be prosecuted without delay, have an open trial, and be present at trial. The accused may remain silent and any statements are supposed to be written verbatim. The Istelam (official questionnaire) for suspects includes questions about the length of detention, whether they have a defense attorney, whether they were tortured, and whether prosecution, police, judges or the detention center asked for a bribe to release the person.
Defense attorneys suggest that defendants are not informed of their rights and rights are not enforced. This includes the presumption of innocence as prosecutors focus on incriminating, and ignore exculpatory, evidence. This was confirmed by one judge who stated that “Sometimes the accused rights are not observed, but we cannot dismiss the case because we know that the person is a criminal.” There were also several people who raised concerns that confessions are made under duress, one judge stated “We see the accused coming to courts without toes nails. It’s clear that their confession was done by force.”

ii. Representation

Every individual can appoint an attorney immediately after arrest and the prosecutor must inform the accused of the right to have a lawyer prior to investigation. The presence of a defense attorney is required when someone is accused of a crime that attracts long-term or longer imprisonment.

In this assessment many defense attorneys complained that they are not present for all stages of the process. The head of AIBA claimed that more than half of accused had no access to defense lawyers. In Mazar, legal aid providers and defense attorneys estimated only 35 percent of cases they handled had legal representation at all stages. The most problematic stage is the detection stage with police and NDS being a big challenge. One veteran lawyer in Kandahar stated that MOI and NDS do not allow defense attorneys to come into the office or give case documents. Courts are adamant that defense attorneys are always present or else the case is postponed. This is supported by defense attorneys who agree that the courts are better at ensuring that defense lawyers are present at hearings, but some defense attorneys were reportedly forced to sign an acknowledgement that they were present to satisfy the legal requirement.

iii. Cooperation

The defense bar generally feels as though their role is symbolic and is not respected and that courts do not consider their arguments. One defense attorney stated that “We feel
as though we are not being heard at all or that we do not exist.”

They feel that they are viewed as the enemy and prosecutors are antagonistic toward them.

Clients have reported that prosecutors try to convince them to pay bribes rather than hire a defense lawyer because it will be cheaper.

Despite the tension that can exist, the legal aid providers and the defense bar in Mazar, Herat and Kandahar stated that they have good level of cooperation with the AGO, predominantly because of the appointment of head prosecutors with defense experience.

In Kandahar, one defense attorney stated that “Now things are good because the top prosecutor was a defense attorney. He advises all the prosecutors in Kandahar to inform the accused of their right to have defense attorneys.”

In Herat, MOJ legal aid stated that they had met the new director twice since he was appointed a few months back, which is a change from the previous head who refused to meet him.

iv. Defense Attorney Malfeasance

Some defense lawyers stated that they do not become prosecutors because “They would have to drink the blood of their brothers to be a prosecutor.” However, it is widely acknowledged that some defense lawyers make deals. One experienced justice sector official stated that the majority of defense attorneys are brokers that facilitate deals and act as a go between for the client and the AGO or judges. Another person with extensive experience in the justice system said that “Some advocates are famous for resolving cases and they get a lot of money” from bribes. End users reported that some defense attorneys paid or advised the payment of bribes to the prosecutor. One observer noticed that five accused received different treatment after a defense attorney was called into a room with the prosecutor. In Kandahar, AIBA suspended the license of one attorney and revoked the license of two others for bribery. In Herat, the licenses of three attorneys were revoked for bribery.

v. Legal Aid

It is estimated that 70-80 percent of accused persons are in need of legal aid. The MOJ Legal Aid Department appoints defense attorneys for the indigent in criminal cases and has 121 legal aid providers in 21 provinces, of which 72 are funded by the World Bank. Last year MOJ handled 8,000 cases.

There are also 15 non-governmental organizations (NGOs) authorized to provide legal aid. The International Legal Foundation - Afghanistan (ILFA) is the largest with 53 lawyers handling 4,265 cases in 2015, while other NGOs have one or two lawyers.
addition, MOJ sends about ten cases a month to AIBA, whose lawyers are obligated to provide pro bono representation in three criminal cases every year, but a majority of AIBA’s 2,995 members do not

Cases come to MOJ and ILFA from the police, prosecutor, defense, or by going to the prisons to find clients. One of the key tasks of MOJ Legal Aid Department includes launching public legal awareness programs. MOJ and other legal aid providers use a combination of brochures, radio and television to get their services known. MOJ established a toll free legal advisory call center and distributed over 130,000 leaflets in 33 provinces in 2016. However, legal aid providers face challenges getting out to the districts due to security concerns and the lack of transportation. In Herat, only six percent of MOJ cases came from the districts and there were none in Kandahar. As stated by the legal aid representative, “We really do not know what is happening in the districts.”

One point of contention raised by legal aid service providers was the disparity between salaries with World Bank funded positions being paid over three times as much as other legal aid providers. Many believe that the legal aid service should be consolidated under the government. The Asia Foundation is currently undertaking an assessment for a legal aid roadmap to gauge ideas of legal aid with results expected in the spring of 2017.

h) Diversion of Cases

A simple calculation of cases that have been received by the justice system in Afghanistan quickly leads to the conclusion that crime is underreported, even if an extremely low crime rate is considered. Taking what has been reported as the lowest crime rate in the world of 649 crimes per 100,000 and applying that to Afghanistan’s population of approximately 30 million people, the expectation would be that there to be 194,700 reported crimes, or six times more than the current figures provided by the AGO.

The absence of cases is a cause for further inquiry as a potential corruption stream. The factors that seem to be at play include the use of the informal justice system, the settling of cases by power brokers in the provinces and districts, and the diversion by powerful people who do not allow cases to move forward. One United Nations Office of Drug and Crime (UNODC) study from 2013, found that 21 percent of ANP officers who received
bribes did so in order to not report drug trafficking, illegal mines or the smuggling of other items.\textsuperscript{309} Other complainants were discouraged from registering complaints by prosecutors and were sometimes threatened with imprisonment when they complain against powerful people.\textsuperscript{310}

Justice sector officials interviewed for this Assessment agreed that many criminal cases are handled informally by Shuras, Jirgas, or elders. Some justice sector officials interviewed for this assessment view the informal system positively and encouraged people to settle some cases between themselves.\textsuperscript{311} The formal system in districts is often only used for serious crime or when the informal system did not resolve the dispute.\textsuperscript{312} Although there are reports that the informal system has handled murder and robbery, this does not appear to be widespread.\textsuperscript{313}

One obvious reason for the use of informal justice is the absence of justice sector officials in some districts, or the distance that must be travelled to access the formal system.\textsuperscript{314} Even where the formal justice system has a presence there is a preference for informal justice systems in the districts. District assessments have consistently found that the formal system is viewed as corrupt, time consuming, expensive (because of transportation and bribes), and open to manipulation by powerful people. Additionally, respondents viewed the punitive elements of the formal system as perpetuating conflict, while others hesitated to use the formal system because it was unknown to them or did not incorporate local custom or sharia.\textsuperscript{315} Despite this, the informal system does have limitations and is not immune to corruption and influence of powerbrokers.\textsuperscript{316} In addition, women are often not given equal rights.\textsuperscript{317}

The connection between the formal and informal system seemed to be mostly one sided with cases being referred by the formal system to the informal system. Many assessments reported the involvement of the justice officials in the informal system to varying degrees, with some providing support in order to resolve difficult disputes\textsuperscript{318} and others being members of Jirgas in an unofficial capacity.\textsuperscript{319} Some informal systems report their decisions to formal justice institutions.\textsuperscript{320} Its worth noting that a law on Dispute Resolution Shuras and Jirgas was drafted in 2010 to formally recognized dispute resolution councils. Councils were allowed to hear criminal cases that do not require imprisonment with the right to appeal to the formal system. The law did not proceed in part due to disagreement over criminal jurisdiction.\textsuperscript{321}

Another factor that appears to be diverting cases from the formal justice system are governors and police who are acting as gatekeepers.\textsuperscript{322} There are assessments which reported that the district governor or district police were solving cases themselves, sometimes taking bribes to do so.\textsuperscript{323} A UNODC assessment reported that five percent of
ANP officers who received bribes did so to solve disputes.\textsuperscript{324} There were also reports of provincial governors hearing disputes.\textsuperscript{325} In one example, a person from a district in Kandahar shared a story about a relative of the district police chief who was trying to take his land. The district chief volunteered to solve the case and advised him not to file an official complaint. The chief had him sign a power of attorney and conducted a review calling in elders and others to discuss the case. He made a decision which resulted in him losing part of his land and forced the complainant to sign the decision.\textsuperscript{326}

i) System Wide Issues

There are a number of issues that appear at all stages of the AGO’s participation in the criminal justice process. Some are actual corruption such as bribery and political interference. Others, such as legal awareness, security and facilities, contribute to the ineffectiveness of the AGO, which in turn allows corruption to occur with impunity.

i. Bribes

Bribes are the most common form of corruption in the AGO and are often a precondition for service delivery. As one interviewee put it “there is no justice without paying bribes”\textsuperscript{327} and “attorneys are not processing any cases without money”\textsuperscript{328} Prosecutors often slow down the process to make more money.\textsuperscript{329} Defense attorneys “know that every order or signature has a price.”\textsuperscript{330} “The law is applied on the poor people the most”\textsuperscript{331} Bribes are not always cash, but often cars, homes, gifts, or sexual favors.\textsuperscript{332} “They invite prosecutors to parties, and offer to provide them cars”.\textsuperscript{333}

The prevalence of bribery is borne out by the statistics. In IWA’s 2016 National Corruption Survey, it was noted that 51 percent of visits to a prosecutor resulted in a bribe\textsuperscript{334} and UNODC’s 2012 survey found that over 50 percent of prosecutors received a bribe.\textsuperscript{335} Many end users interviewed for this assessment claimed that they had been solicited for bribes.\textsuperscript{336} In Kabul, approximately 13 percent of end users admitted to paying a bribe to the investigating prosecutor and 20 percent admitted to paying the trial prosecutor.\textsuperscript{337} Defense attorneys also claimed that the system was rife with bribery\textsuperscript{338} and admitted that they were aware that their clients had paid bribes.\textsuperscript{339} End users reported that the bribes ranged from AFN 15,000 to AFN 30,000 for an average of AFN 23,000 (USD 350) with one reporting paying a USD 10,000 bribe.\textsuperscript{340}

Anecdotes of bribery are endless. One person interviewed shared an experience where he came under investigation. There was reportedly no evidence, but the AGO investigator noted his well-paying job and asked for USD 1,000 to close the file. In another example usurpers brought construction equipment to a property in Kabul. The land owner filed a
case at the AGO and was asked for USD 10,000. Ultimately the parties resolved the case themselves by entering into a joint venture to develop the land. In another example, a senior government official was arrested for corruption, again with little evidence. The investigating prosecutor asked for USD 20,000 to drop the case, but it was not paid and the individual was convicted and sentenced to five years in prison. One defense attorney shared a story where the prosecutor had requested USD 5,000 to release detainees in a murder case, another prosecutor was arrested in Kabul province for seeking USD 5,000 to change the facts of a case, and yet another was arrested for trying to extract a bribe from a traffic accident. The AGO reported that 37 prosecutors from the provinces were put on trial for abuse of power, taking bribes, embezzlement and not showing up.

Speaking to the petition writers outside of the AGO building is also very enlightening. One petition writer in Kabul stated that most of the complaints that he wrote for petitioners related to bribes. The petition writer and others in the provinces shared their direct observation of prosecutors taking bribes in public, and all agreed this was a very common practice in the past. Petition writers also advised that prosecutors used to have their own brokers outside the offices, some of whom were shopkeepers that collected money on behalf of prosecutors. The situation has reportedly improved since the appointment of AG Hamidi and petition writers advise that brokers have disappeared and bribes are no longer being exchanged in the open.

The criminalization of civil cases that do not relate to crimes were also being used as an opportunity to extract a bribe. There are reports that this was particularly lucrative for former high-ranking officials at the AGO who had officials collect money from foreign contractors to have cases against them dismissed. The AGO insists that they no longer proceed with civil cases, but end users interviewed for this assessment had several complaints about civil cases being criminalized. Other government officials are also involved in the bribery schemes. For example, a former judge stated that “Judges meet prosecutors and make deals. Many have studied together and are friends. They develop relationships over time and the corruption becomes solidified.” In one province, the governor reportedly asked prosecutors make payments to him every month, indicating that other government officials were also doing so.
ii. Interference

The biggest challenge to the effective function of the prosecutor’s office is the constant interference that prosecutors face in their work. As one justice sector official stated, “interference is absolute in Afghanistan” with “political intervention being the biggest problem” and “happening all the time.” Members of Parliament (MPs), district governors, provincial council members, elders, and warlords putting pressure on officials even for small issues. They call, write, or come to their offices and make threaten to have the official sent to the provinces. Ironically, “some MPs come and ask to handle cases and some ask them not to handle the same case.” When criminals are caught warlords and MPs stop people from being arrested. MPs tell prosecutors that they campaigned for the president so they should not pursue the case. One defense attorney remarked that “prosecutors are ready to violate laws 100 times to avoid MPs. People are not as afraid of the death angel as they are of the MPs.” In Kandahar, it is reported that the governor heavily interferes in the work of the AGO, giving illegal orders, summoning prosecutors, and intervening in investigations. Another form of interference comes from government intuitions themselves who do not cooperate or share information, while others actively help the accused.

MPs and other powerful figures are by no means the only ones interfering in the prosecutor’s work. The first thing anyone will notice when visiting the AGO anywhere in the country is the long line of citizens with documents and petitions lined up outside the door of every office. In nearly every instance there were people waiting outside the office, including the anti-corruption unit where relatives were waiting to get a signature for the release of a family member. As one prosecutor stated, “The public come to line up behind our doors.” “There are never less than ten people waiting for me outside my office.” The family of the accused come to follow-up on cases, provide evidence, and influence the prosecutor. “People don’t know the law and ask to release the accused.” It is common to bring close friends and contacts to interfere in cases because they know someone in the justice institution.

iii. Legal Awareness

The lack of awareness is a major contributing factor to corruption. “People provide room for corruption by being ignorant” and pay prosecutors to do their job because they do not know any better. The AGO’s Communications and Public Awareness Directorate has 25 professional staff, but have not been very active in the past. There has never been an awareness campaign and no activities in the districts.
have been limited to conferences, magazines, press releases, and a recently reconstructed website where they have begun to receive enquiries from the public.\textsuperscript{376} The AGO Communication Plan identifies the need for budget and equipment for creating radio and television announcements, billboards, brochures, magazines, posters, and engaging Mullahs, but does not have a budget to execute it.\textsuperscript{377}

\textbf{iv. Security}

Many prosecutors live in areas with fragile security leading to the absence of justice in many areas and a lack of oversight. Prosecutors continually receive death and kidnapping threats.\textsuperscript{378} In 2015, over 36 AGO staff were killed and 70 were injured because of terrorist attacks.\textsuperscript{379} Overall, Herat has lost eight prosecutors,\textsuperscript{380} Kandahar has been warned of an imminent attack and there have been three prosecutors killed in the past year.\textsuperscript{381} The Mazar office was attacked in 2014\textsuperscript{382} and the newly repaired building was damaged in November 2016 by an attack on the German Consulate nearby.\textsuperscript{383}

\textbf{v. Facilities}

The lack of appropriate facilities is obvious in all elements of AGO operations. At best, it is a lack of space with “four people working in a room that is not big enough for four mice”\textsuperscript{384} and upwards of 12 prosecutors in one room.\textsuperscript{385} At worst it is decrepit and intolerable conditions with\textsuperscript{386} broken windows, mold, and exposed electrical wires.\textsuperscript{387} One employee claimed that “It's better to be in a graveyard then to work here.”\textsuperscript{388} There is no place to handle the accused\textsuperscript{389} and prosecutors interview victims and accused in rooms with several other people.\textsuperscript{390} Defense attorneys in some locations were seen interviewing their clients outside.\textsuperscript{391}

The space in the districts is reportedly worse. Herat reports that they do not have adequate space in any of their 15 districts\textsuperscript{392} and prosecutors going to the districts do not have accommodation.\textsuperscript{393} The AGO generally does not have any of their own office space\textsuperscript{394} and are allocated a small room or two in the district governor or police compound,\textsuperscript{395} which leads to interference.\textsuperscript{396}
In response, the AGO plans to build district prosecution offices and residential apartments. Land has reportedly been identified in many districts, and has been acquired or is being acquired. The building designs are expected to include both living and work space so that prosecutors can stay in the districts. It is reported that the Attorney General has ordered buildings to be designed and constructed in the next three-years and the 1395 procurement plan included five district buildings, zone offices, repairs, and the construction of an office to take complaints.

There are other chronic problems that make it impossible to do the job of a prosecutor properly. There is a lack of computer usage with few computers on the desks of officials. Sometimes where there is a screen or some other instrument, it is covered in a thick layer of dust. The system is clearly manual and there is a lack of internet except for case management operators. As a result, prosecutors do not use email and use their phones for internet when they need it. There is spotty electricity in some facilities and a lack of fuel for generators. Many offices have no heating and some offices are unbearably cold because they do not have funds for electricity. There is also an absence of furniture, with makeshift tables being used for desks, no funds for printer toner, and no stationary.

One illustration came during an interview in Mazar. The prosecutor was working in her office as the windows were being replaced because they were blown out by a truck-bomb blast. We asked if we could get some statistics and she banged on the wall beside her and her assistant faithfully appeared at her door. Noticing our surprise, she said with a smile “we don’t have email or telephones so that’s how I call for my assistant.” She said that this was an improvement as they used to sit on the ground because they did not have chairs.
IV. HUMAN RESOURCES AND ADMINISTRATION

The way prosecutors are educated, hired, and managed are all critical elements in assessing vulnerabilities to corruption. Low capacity of prosecutors is a central factor in the weak administration of justice in Afghanistan and contributes to deficiencies and delays in the prosecution of cases. At the root of the problem is education, training and the way that prosecutors have been hired in the past. A review of these areas reveals corruption in the past hiring of prosecutors based on nepotism, patronage and bribery. It also reveals several factors that contribute to the prevalence of corruption, including low salaries, weak performance management and weak monitoring. Finally, a number of factors contribute to the ineffectiveness of the AGO more broadly. This includes weak planning and insufficient budget practices that leave prosecutors without the resources they need to perform their jobs.

a) Education

According to legal requirements, prosecutors must hold a bachelor’s degree in law or sharia and must complete the Stage course or have three years of work experience in judicial or legislative entities. The acceptance of law or sharia degrees has reportedly led to conflicts when a judge and a lawyer have been trained in different faculties and have different perspectives on the application of the law. Prior to 2013, the law allowed for legal experience to substitute for the requirement for a law degree and there still approximately 125 prosecutors that do not meet current education requirements. This list of 125 prosecutors has reportedly been submitted to the President for approval to have them retire with a severance package.

i. Legal Education

There are eight public universities and a number of private universities that offer law degrees in Afghanistan and ten public universities that have sharia faculties. The number of law schools has led to concerns regarding the quality of the faculty as there are not enough experts in the field to teach at all of the schools offering law programs. The Kabul Faculty of Law and Political Science is the largest in the country with approximately 1,400 students, of which approximately 150 will graduate from law in 2017. Students attend for two years in general courses and then select a legal or political science stream for the final two years. The Kabul University Faculty of Sharia also has approximately 1,400 students with 320-350 in each year’s cohort. Some have said that the number of lawyers graduating from law school is too great and that the market for lawyers is saturated with lower quality graduates.
The legal curriculum has also been criticized for not providing practical courses and being outdated. The curriculum blends law and political science courses for the first two years and includes courses on history, economics, political geography, diplomacy, local governance, international relations, and developing countries. The curriculum focuses much more substantively on law in the last two years and briefly cover courses on Islamic law, ethics and jurisprudence. The Ministry of Higher Education (MOHE) has decided to separate the political science faculty from the law faculty at Kabul University starting in September 2017. 5 MOHE and the Kabul Faculty of Law are working to finalize the curriculum to provide a broader range of courses. It is expected that such changes would be adopted by other universities, but universities outside of Kabul have raised concerns that they are not being consulted and that their needs will not be addressed.

There are concerns that the sharia curriculum does not provide adequate legal skills and the Asia Foundation is reportedly working to update the curriculum to add more law courses. The Faculty of Sharia in Kandahar has already adopted this approach by including a number of law courses taught by the sharia faculty and a number that are taught by the law faculty. This includes constitutional, criminal, commercial, civil, and labor law.

The need for practical training has consistently been identified as a gap in legal education and legal clinics for law and sharia students currently operating at five universities help to address this gap. The clinics deal with some criminal cases, but are mostly focused on civil and family. The Asia Foundation and ILFA provide practical training. Asia Foundation training is six-months with the first three focused on theory and the second three focused on practical work. ILFA provides law students three-month practical experience at three different times during the year. The AGO has also introduced an internship program for recent female graduates to work at the AGO and later provide them priority at the AGO entrance exam.

ii. Stage Course Certification

The NLTC was established by Presidential Decree in 2007 as an independent institution to enhance legal and professional skills through the Stage course. The Stage is divided into two four and half month semesters, followed by an exam. The core curriculum was developed in 2008 and has 20 subjects. Last year, there were approximately 2,000 applicants for 240 spaces, of which are allocated to AGO employees. The Stage course is not available outside of Kabul, but there are plans to expand it to the regions if approved by the government. Most defense lawyers in Kabul completed the Stage
course, while in Herat, Kandahar and Mazar it was the exact opposite with very few having completed the course. Prosecutors in the province do administration work for three years before they can handle cases because of the absence of the Stage course.

There have been a number of efforts to initiate alternative Stage courses. The courts have their own and AIBA started to offer its own Stage course through two NGOs providing two different programs. This has resulted in the further splintering of Stage education. The AGO plans to establish their own stage course because they feel that the NLTC Stage is not practical and that AGO lawyers need to have specialized training.

iii. Licensing

Graduates who wish to practice law as defense attorneys must complete a bar admission test administered by AIBA after completing the Stage course. The AIBA application form to confirm qualifications is very basic and includes sections to confirm the degree, tax status, work history, criminal record, and Stage course or work experience. This is done by having the applicant take the form to each relevant entity, but AIBA does not verify the contents. As noted above, the Stage course cannot accommodate all the people applying. Some lawyers were issued licenses on condition that they complete the Stage course later, resulting in a number of people practicing law without technically meeting the requirements.

iv. Continuing Legal Education and Training

There are many prosecutors that do not have the capacity to exercise their duties and there has been no comprehensive system in place to provide additional training, continuing legal education or capacity building. In response, the AGO Professional Training Institute was approved as part of the 2015 Tashkriel, but was not staffed until the summer of 2016. It is responsible for designing, implementing, and managing continuing legal education for prosecutors and has recently engaged in an institutional learning needs assessment supported by IDLO. Once completed, learning interventions will be designed and delivered through the Professional Training Institute.

b) Hiring

i. Hiring of Prosecutors

The AGO and CSC had a long-standing dispute about who has authority to appoint prosecutors. Ultimately the dispute was decided by the Supreme Court in favor of the AGO. Based on this, neither the CSC nor anyone else has oversight of the appointment of prosecutors.
Prosecutors in grade three and lower are proposed by the respective DAG and approved by the Attorney General, and grade two and higher are proposed by the Attorney General and approved by the AGO High Council and the President. Competitive processes have not been used extensively in the past and there is a general belief that people had received their positions through connections. “People are hired through personal contacts, which creates opportunities for corruption due to a lack of accountability.” One apparent attempt was witnessed during this assessment when the MEC team met a woman who came to petition a DAG for a job as a prosecutor after being debarred by AIBA. There are also reports that appointments and commissions were commonly purchased in the past.

The existence of nepotism is supported by a UNODC assessment that found 30 percent of prosecutors, Hoqooq and MOJ officers received assistance during recruitment, with approximately ten percent having paid a bribe. Over 30 percent reported that they had no substantive assessment before they were hired which correlates with higher rates of undue assistance. Even the new Attorney General’s recent appointments have been called into question by some since a number of former AIHRC officials have made their way into the AGO. One view on this is that these are appointments without competition, while the other likens these appointments to political appointees in western systems. Regardless, the absence of a human resources policy and clear transparency is troubling.

Since the appointment of the AG Hamidi, the AGO reports that it has conducted four entrance exams resulting in the hiring of over 250 prosecutors, however women who were willing to work in the province were given a chance to join without taking the exam.

ii. Hiring of Administrative Staff

The civil service employees of AGO are supposed to be appointed based on merit and professional skills using open competition. In the past, administrative positions were not being recruited according to the law with several departments at the AGO complaining about the staff they inherited not meeting qualifications and being hired based on nepotism. More recently the AGO has advertised positions, checked documents, and administered a test with CSC monitoring. Administration staff are hired in the provinces, but approved by the AGO. In one province, the AGO did the terms of reference but stated that they are not listened to and the process is vulnerable to corruption. In Mazar the AGO hires administrative staff themselves, but the candidates are approved by the governor for grade five and six and by AGO headquarters for grade one and two.
iii. **Interference in Hiring**

There is frequent interference from MPs and influential people in the process and the deployment of staff. The Human Resources Directorate faces daily calls and visits from MPs asking for jobs for their relatives. In one example, we witnessed a Member of Parliament come to petition for his cousin in Helmand who was fired for not showing up to work for a month. The MP wanted his cousin reinstated, but the cousin only had a grade 12 education. AGO officials reported that they get at least a few calls a day and showed a stack of petition letters on official National Assembly letterhead.

**c) Pay and Performance**

i. **Salaries**

Low salaries, in the past, has been consistently identified as one of the main drivers of corruption in the AGO. This was supported by an Integrity Watch Afghanistan survey which found that 31 percent of respondents said that corruption exists in Afghanistan because of low salaries or the need to live. Previous salaries were USD 200-250 per month and are inadequate to provide a fair living. More than 50 percent of civil servants viewed the taking of a minor gift to top-up a low salary as acceptable. This sentiment was shared outside of the public service with people “feeling pity” for low level people doing corruption and asking “whether AFN 2,000 is really corruption when the salary is so low?” Even defense attorneys ask “What can someone do with this salary?”

As a result, 40 percent of prosecutors reported that they had a paid activity in the same sector. This was directly observed at a meeting where a prosecutor who was doing consulting work for a defense firm was in attendance to discuss an ongoing criminal case. There are also inconsistencies with the salary levels of prosecutors at the same level that has fueled resentment.

Based on the AGO proposal and Presidential Approval Order # 4249, the salaries of civil and military prosecutors have increased as of December 2016. Based on this new salary scale, the salaries of prosecutors increased twofold. The salary scale indicates six grades that each of them has five steps. For instance, the previous salary of the 1st grade 1st step was AFN 27,200 but it has increased to AFN 54,400 based on the new salary scale.

ii. **Performance Plans and Assessments**

Some AGO prosecutors have performance plans, but they generally do not use them. Employment contracts for prosecutors do not meet professional standards and do not include detailed terms of reference or duties. This leads to ambiguity regarding
expectations and creates challenges for managing performance. Although the assessment team did observe at least one unit attempting to use their own detailed performance plans to manage prosecutors. There is an opportunity to use the electronic case management system to manage performance by tracking prosecutor caseloads and outputs. However, the AGO has reportedly been reluctant to modify the case management system to allow unique identifiers for case tracking.

The law allows professional behavior to be awarded through cash, letters of appreciation, or a granting a medal or a title. Punitive measures can take the form of warnings, deduction of wages, transfer of position, or abrogation of labor contract. There is recognition that punishment and reward principles need to be applied at the AGO, but discipline is difficult because people have strong connections. The Afghan government reported that 20 percent of prosecutors have been released from their posts, but they were reportedly shuffled to new positions.

### iii. Attendance

Attendance is an issue across the AGO system. Government employees in the province work from 8:00 a.m. until 2:00 p.m., but one AGO office visited had very few people there after 1:00 p.m. Prosecutors in another province reportedly took lunch from 12:00 – 2:00 p.m., but were still not around well after that. In Kabul, officials are supposed to start working at 8 am, but you can witness dozens of people streaming in between 8:30 a.m. and 9:00 a.m. In one provincial office, there was no attendance sheet before the new prosecutor started and people were only showing up on the last day of the month to get paid. In another province, people were absent for 10 – 20 days at a time before new leadership arrived. Attendance in districts is recorded in sign-in books that are reportedly verified every six-months by checking district reports against the sign-in book. In some districts a prosecutor’s attendance is approved by the district governor and then sent to the provincial center. Neither of these methods is satisfactory and provincial offices have communicated a desire for electronic fingerprint system.

There is evidence that many officials are not showing up for work and the number of people reportedly working in any office are simply not there. One office in Kabul was supposed to have eight prosecutors, but there was only one in the office and all the other desks were empty. The head of one provincial prosecution office was not in the office two days in a row for unexplained reasons. Another district prosecutor was found to be lying about his whereabouts when his phone records showed him to be outside of his district and the district governor reported that he was only in the office twice a week. Defense attorneys also consistently complained about the absence of prosecutors.
another case, two AGO officials were found to have been also collecting a paycheck from the Ministry of Education.496

Even if they do show up, there are many officials who do not appear to be doing any work. Herat was clearly a hub of activity, whereas other provincial offices were not497 with no papers or computers on prosecutors’ desk.498 One EVAW unit had three people, one sitting with her hands folded on an empty desk, another who was playing on her phone with an empty desk, a third who was working on a personal document and the department head was nowhere to be found.499

iv. Leadership

One area of notable progress – even in the absence of broader structural changes – can be seen with the replacement of key leadership in the provincial centers and key directorates. All sides of the justice system have noticed a marked improvement in corruption since the appointment of new head prosecutors.500 As one petition writer stated, “Things have changed a lot now compared to the past. There is a new top prosecutor. People think he is determined to fight against corruption. People are happy. I don’t see people bribed prosecutors now.”501 The new leadership has also been able to curtail interference because they are vocal and intolerant.502

d) Monitoring and Oversight

The Law on the Structure of the AGO creates duty-related offences for intentional delay in completing investigations, and detention of a person for more than the authorized.503 Criminal misconduct is assigned where there is negligence in monitoring the condition of detainees, failing to prosecute when there is sufficient evidence, and issuing arrest warrants without justification.504 However, one of the largest deficiencies in fighting corruption in the AGO has been the absence of oversight of prosecutor activities.

Nevertheless, based on the official report of AGO, the monitoring and oversight mechanism of AGO has improved and provincial trips aimed at overseeing the performance of prosecutors continue. Additionally, setting up public complaint boxes, controlling the attendance of prosecutors, expelling of 68 professional, administrative and services-providing staff of AGO on charges of absenteeism, and dismissal of 12 staff of AGO on charges of taking bribes have been effective in bringing about reform.505

As one interviewee stated, “Prosecutors feel that there is no one that can inspect them. They are not afraid of performing badly. Reform on this alone can bring a lot of impact.”506 Some have commented that one of the most obvious signs of corruption is prosecutors who are buying and other expensive items after a few years of service.507 The
Attorney General and prosecutors are required to register their assets, but only the Attorney General has done so. HOO has reportedly sought details of AGO staff who are obligated to register their assets, but no response has been received.

The AGO notionally has the structures in place to provide monitoring and oversight, but they were weakened under the previous leadership. Allegations of prosecutor misconduct are initially reviewed by the Inspection Department. The Inspection Department reviews violations upon the direction of the Attorney General himself and sends them to the Control Directorate for further investigation. The Control Directorate investigates and prosecutes corruption cases against prosecutors. The unit was reportedly kept weak under the previous Attorney General, but a new head has been appointed from MCTF and is currently undertaking a review of the Directorate’s limited terms of reference. The new head wants to double his 20 prosecutors, and is seeking experts and tools such as cameras to catch prosecutors.

The Supervision of Investigations Directorate is another unit that has responsibility for oversight of prosecutors in the investigative stage. The unit has nine investigators and receives cases from the Attorney General. This unit was also kept weak under the former Attorney General with one prosecutor who has worked there for seven years indicating that they never had a case before the new Attorney General was appointed and used to “sit around and drink tea all day”. According to him, the old Attorney General was not interested in investigating complaints, and took away their powers and advised them not to do anything. Since the new Attorney General was appointed things have changed and they now have 26 cases, of which 14 were completed.

Oversight in the provinces and districts is also poor. For example, the Monitoring and Evaluation Department in Kandahar is reportedly on the Tashkiel, but was eliminated by the previous head of Kandahar. In Mazar, there was a Monitoring and Evaluation Department that had two prosecutors, but one was splitting her time with another department. Even this function is cursory as they do desk reviews of cases to see if the case evidence and prosecutor findings make sense. One of the most egregious examples was in Herat where the MEC assessment team’s questions about the Monitoring and Evaluation Department were met with laughter. Staff advised that there was a department on Tashkiel but that the person never showed up except to collect a salary. He was reportedly a strong person with connections at AGO headquarters. When MEC contacted the individual he claimed that he was sick that day and then became defensive, stating that he was close to the Attorney General, and explained that he was a wealthy man and gave his salary to charity. In addition, there is no systematic monitoring of districts, and provincial officials rarely go to the districts themselves. Prosecutors submit reports on the cases they have received, but not their case logs.
have been visited show a number of irregularities in dealing with cases including missing cases and case files, and case logs that do not match the reports that were submitted. Complaints from the public are not handled according to any written procedure. Complaints are logged by the correspondence unit and sent to the Attorney General who makes an order which is sent to the relevant department for resolution. Detainees also have the right to complain to the AGO and there are complaint boxes in each prison that are delivered directly to the AGO. The AGO Complaints Unit was described as being very inactive in the past and people have claimed that they used to take bribes to register complaints. Others reported that brokers operated outside of the AGO who took money to get the signature of the former Attorney General on complaints and petitions. These brokers have disappeared under the new Attorney General because he meets petitioners personally every Monday thereby cutting brokers out of the process. Petition writers in Kabul have noticed a significant uptick in complaints since the new Attorney General has been appointed. A petition writer explained that clients have come from all over Afghanistan because they heard on the radio, and from friends and family that there is a new Attorney General who listens and provides results. For example, one end user shared a story where they complained to the Attorney General that the prosecutor was asking for USD 10,000 and he prepared a sting operation that resulted in the people being put in jail.

The AGO made commitments to install complaint boxes in all AGO offices, and implement an email address and toll-free number for complaints. The new website now includes the ability to receive complaints and they receive two to three weekly from this source, but Afghans reportedly prefer to file handwritten petitions instead.

e) Planning and Budgeting

The AGO’s operational budget for 1395 was AFN 1.154 billion (USD 17.8 million) and the development budget was AFN 190 million (USD 2.9 million) for an overall 0.3 percent share of the Afghan government’s budget. Development projects are limited to constructing the headquarters in Kabul, provincial and district offices, a National Justice Program, and the installation of a water heater. In 1395, the
33 provincial offices had a budget of AFN 748.3 million (USD 11.5 million) or an average of AFN 10.2 million (USD 156,923).\textsuperscript{531} In 1395 Balkh had a total annual budget of AFN 17.4 million (USD 267,692) of which AFN 16.8 million (USD 258,461) was for salaries, AFN 384,000 (USD 5,907) was for administrative expenses, and AFN 36,000 (USD 554) was for vehicle repair. Kandahar had an overall budget of AFN 12.7 million (USD 195,384), AFN 12.1 million (USD 186,153) for salaries, AFN 384,000 (USD 6,620) for administration, and AFN 36,000 (USD 554) for vehicles. Herat’s annual budget is AFN 16.3 million (USD 250,770).\textsuperscript{532} On a positive note, the AGO’s budget has increased for the next fiscal year,\textsuperscript{533} but this is still not sufficient to meet all of its needs.

The Finance Department is responsible for developing the budget, administering salaries and overseeing procurement.\textsuperscript{534} The AGO lacks capacity for designing and implementing financial plans.\textsuperscript{535} There is no forward planning in the provinces\textsuperscript{536} and the budget link with planning is not strong.\textsuperscript{537} The AGO is starting to amend its five-year strategy which expires this year, but substantial changes are not expected as many activities were not completed.\textsuperscript{538} The budget is developed by a committee chaired by the DAG for Administration. Provinces are sent a letter with their operational budget allocation\textsuperscript{539} and a letter requesting their development priorities.\textsuperscript{540} The provincial offices complain that headquarters decides everything and they are not involved in the budget process.\textsuperscript{541} As one provincial official stated, “Headquarters designs the food and tells us how to eat it”.\textsuperscript{542}

The Finance and Administration Directorate in Kabul receives monthly reports of expenses against allocation. Salary payments are administered by MOF and paid through New Kabul Bank.\textsuperscript{543} The AGO typically has very little in the area of procurement and do not face any undue influence.\textsuperscript{544}

f) Conclusion

The area of human resources and administration offers some of the greatest opportunities to address the underlying factors which contribute to corruption. Improvements in legal and continuing education can help to professionalize the practice of law and increase prosecutorial capacity. The continued practice of hiring of prosecutors transparently based on merit can ensure that the best candidates are selected, while improved salaries and performance management can lead to the removal of incentives for seeking bribes and create incentives for positive behavior. These initiatives, along with a strengthened oversight regime would help to reduce corruption extensively.

V. KEY FINDINGS

The AGO has historically been perceived one of the most corrupt government entities in Afghanistan characterized by extensive bribery, nepotism and patronage, and interference
in its official functions. However, corruption is a symptom of underlying deficiencies including a lack of accountability fueled by an inadequate organizational structure, inept management, and the active suppression of monitoring and oversight. The initiatives of AG Hamidi since his appointment offer an opportunity to pursue the reform that is required to strengthen the AGO’s ability to address crime and fight corruption.

a) Education and Licensing

The current approach to providing foundational legal education for professional and ethical prosecutors is not optimal. Lawyers working in the legal system receive significantly different educations and the practical training envisioned by the Stage requirement has failed to materialize. The quality of legal education and the profession has further been compromised by the number of law programs and graduates leading to lower quality professors and an inability to absorb graduates. The licensing process is also susceptible to corruption because applicant qualifications are not validated by AIBA.

b) Appointments and Performance Management

The lack of professionalism of some prosecutors is exacerbated by the past practice of hiring of prosecutors through patronage and bribes. The hiring of prosecutors has escaped oversight and the hiring process was not transparent, though there have been recent improvements. Once hired, prosecutors and staff are not being managed for performance. Terms of reference are not always clear and performance plans and assessments, where they exist, are formulaic. Many AGO officials are often absent from their positions or show-up late. Others are deployed outside of their assigned area with no system in place to account for their activities. The AGO lacks a system of incentives and punishment, including an appropriate base salary and monetary incentives for performance. The wages earned by prosecutors is not sufficient to provide a reasonable standard of living. This creates a strong incentive for seeking bribes and outside employment, which presents opportunities for conflicts of interest. The recently announced salary increase is a welcomed step for competent and ethical staff. However, there should be required measures regarding the poor performer and unqualified staff.

c) Cooperation and Case Management

The case management process has a number of deficiencies that can be addressed to reduce vulnerabilities to corruption and increase effectiveness. In some cases, there is a lack of cooperation between the police and investigating prosecutors and the relationship between the AGO and other referral agencies can be improved. Transparency can be increased by requiring prosecutors to enter case information when a case is received and when a case is disposed. It would also be beneficial for all agencies and the AGO districts to utilize the case management system so that they can receive real time information.
Transparency can be further enhanced by requiring prosecutors to log indictments and appeal arguments at the time they are submitted to the court. There is a lack of transparency regarding cases that are transferred between jurisdictions at the district level and can be remedied by implementing the system introduced by AG Hamidi when cases are transferred to Kabul. Requiring that written reasons be provided to the parties when such a decision is made would also enhance transparency. The appeals process can also be improved by expediting the delivery of appeals documents from provincial AGO offices to Kabul.

**d) Investigations**

Investigations conducted by the AGO present opportunities to increase transparency and accountability. Tight statutory timelines for completing investigations when a suspect is detained lead to hastily conducted investigations. Detention has also reportedly been used as a tool to extract bribes. Amendments to the law to introduce an explicit presumption that bail will be granted unless there is a risk of flight or to public safety can help to address this practice. Prosecutors have been noted as abusing their authority in the opening, closing, or prolonging cases and for requiring bribes for the exercise of their duty. Cases are also proceeding with weak evidence, sometimes to avoid accusations of corruption. There appears to be a weak understanding of evidentiary standards and the prosecutor’s role in collecting and examining all evidence. Prosecutors are also facing a number of resource constraints. Provinces face delays in having forensic evidence tested, prosecutors do not have access to the internet or email, lack transportation to visit crime scenes, collect evidence and interview witnesses, and lack security that prohibits them from visiting certain areas. Investigators also face resistance from uncooperative government agencies.

**e) Court Proceedings**

Court proceedings in Afghanistan do not always meet basic standards of due process. Courts often notify participants only a day or two before the proceeding and hearings are very brief, both of which compromise the ability to present and test evidence. Prosecutors are sometimes absent or unprepared and present weak evidence. Some judges register convictions while acknowledging that the evidence is not sufficient. Prosecutors appeal cases, regardless of the merits, thereby consuming unnecessary resources. There are reports that judges and prosecutors meet outside of legal proceedings to discuss cases and sometimes collude in extracting bribes. Finally, court decisions are not being published as required by the law, which reduces transparency and accountability.

One of the biggest challenges is the diversion of cases from the formal justice system. This is because of the inability of the formal system to reach the districts and perceived corruption and inefficiencies in the formal system. The absence of a link to the formal system leads to less accountability and risks influence by power brokers and threatens the
rights of some groups. Visibility needs to be entered into the system to legalize and to provide transparency.

f) Sentences, Enforcement, and Detention

The potential for abuse of detention appears at the sentencing stage as well. Prosecutors and courts overly rely on prison as opposed to non-custodial sentences. This provides a powerful tool for extracting bribes. Police detention centers are not being monitored and the effectiveness of monitoring is not being fully realized because they are not using electronic case management and rely on a manual system to identify, track and review cases. An improved function will reduce opportunities for prosecutors to hold people in detention longer than they are permitted.

g) Legal Representation and Awareness

Empowered defendants can play a strong role in combatting corruption. Defense attorneys are an important element to this, but are not allowed to participate in all stages of the criminal process and are widely absent in the districts. The provision of legal aid is also central to the protection of the rights of the accused, but is not being provided in a comprehensive or consistent manner. The system is divided between public and private providers, with corresponding service gaps and overlap, and disparities in remuneration. The requirement for AIBA lawyers to provide pro-bono cases has proven to be ineffective and difficult to implement. Unfortunately, defense attorneys themselves engage in corruption. Although some have been sanctioned, more oversight of the defense bar is required. Public awareness of the legal system and legal rights can also help reduce corruption. Citizens are less likely to pay bribes for public services when they are aware of their rights. Awareness should also extend to other segments, such as MPs and government officials, who interfere with the AGO functions. Awareness and stigmatization can lead to reduced interference.

h) Security and Facilities

The physical environment in which prosecutors work in is an essential component to the proper functioning of the legal system, but the current AGO facilities are not sufficient. In addition, prosecutors face real threats to their lives. A secure and comfortable environment provides the basis for morale and professionalism. A controlled environment can also help to limit contact and greatly reduce interference.

i) Organizational Reform, Planning, and Budgeting

The organizational framework of the AGO is essential for the effective and accountable functioning of the organization. There are a number of functions that are spread out across different units that need to be reconciled. At a minimum consideration, should be given to
consolidating the various oversight directorates (Control, Inspection, Investigation Inspection, Detection Center Oversight, and Complaints), consolidate functional aspects of the stand-alone specialized units (narcotics, external security, military, EVAW, corruption), and consolidate the Enforcement Directorate and the Detention Supervision Directorate.

Planning and budgeting at the AGO also has a significant impact on its effectiveness. Current AGO plans are weak and have been developed without sufficient participation from the provinces. The budget is not sufficient to carry out core activities in the capital and the provinces and the budget is not tied to AGO plans. Donor coordination can also be improved to provide more comprehensive support to the AGO.

j) Oversight and Complaints

The weakness of effective oversight at the AGO is one of the biggest contributors to corruption. This assessment identified an active attempt by past leadership to undermine this function. Oversight units are disparate and understaffed, there is no streamlined and transparent complaints process, and only the Attorney General has registered his assets with HOO as required, while other prosecutors have not.

VI. EFFECTING CHANGE

Corruption, and the underlying factors that contribute to corruption, in the AGO are not difficult to detect. Nor is it difficult to identify the solutions required to address these factors. The real challenge is answering the question of how we get from where we are now to where we need to go. This is a question of implementation. What follows below are the core steps and structures that need to be undertaken and put in place to ensure that reform is realized.

k) Reform Plans

The ANPDF recognizes that combating institutionalized corruption requires major reforms to the government’s legal institutions and the SMAF commits to tackle the underlying drivers of corruption with a Justice Sector Reform Plan. The second-vice president developed a National Judicial Reform Program to be implemented by the judiciary, AGO, MOI, MOJ, and AIBA focused on providing judicial services, anti-corruption, capacity, and reforming laws and structures. The plan calls for the amendment of the Law on Structure and Authority of the AGO, the Criminal Procedure Code, the Penal Code, and the Advocates Law, capacity building and education for prosecutors, enhanced salaries for AGO staff, enhanced performance management and monitoring of prosecutors, registration of prosecutor’s assets, the transparent follow-up of corruption cases, public awareness programs, and the creation of a reform committee at the AGO. It also calls for a proper mechanism for legal aid, and requires AIBA to evaluate its structure,
entry exams, and pro bono cases.\textsuperscript{547} The AGO anticipates having its own strategy to implement the program completed by March 2017.\textsuperscript{548}

\textbf{l) Governance Structures}

The appropriate governance structures for implementing the reform agenda will be crucial. The Attorney General needs to designate a senior point person who will be responsible for acting as the champion and chief executive for reform. This person should be responsible for establishing two executive committees – one internal to the AGO with participation from the relevant technical departments, and another external to the AGO with participation from justice intuitions and justice sector stakeholders on an issue-to-issue basis. Working committees may be established as necessary. There has also been weak donor coordination in the justice sector to date. Donors need to establish a mechanism to better coordinate amongst themselves and to coordinate with the AGO.

\textbf{m) Human Resources}

Successful reform will require a multi-discipline team to help administer the required changes. The CBR program and planning process should be the basis for securing this team and operationalizing the reform plan. The CBR proposal and results framework will act as the implementation plan and go into greater detail of the administrative resources required to affect that plan. CBR can support technical assistance for the preparation of a CBR program and place critical managerial and professional staff resources in administration and finance, communications, and information technology.\textsuperscript{549}

\textbf{n) Legal Structure}

The legal framework for the AGO and its activities forms the foundation from which all else should be built. Amendments to the Law on the Organization of the AGO, and the Criminal Procedure Code are required to restructure the AGO, and address procedural deficiencies. A draft of the Law on the Organization of the AGO is currently being finalized, but it lacks the more critical and foundational changes required for the effective functioning of the AGO. This initiative needs to be expanded to simultaneously consider the amendments required in other laws.

\textbf{o) Financial Resources}

No reform is possible unless it is properly resourced. The AGO has been starved over the past years and it is not possible to expect that justice can be delivered in Afghanistan on its current budget, even with the proposed increase for the next fiscal year. Given the behavior of past leadership this may have been justified as a means to protect resources, but the time has come to properly resource the AGO. The operational budget of the AGO should be increased to address some of the reform initiatives that have a financial impact,
such as salaries and operations and maintenance of current and new equipment. The development budget has funds available subject to proper plans being developed.

p) Monitoring and Evaluation

Effective monitoring is the last critical component required to ensure that reform is implemented in the AGO. As part of the institution-wide VCA process, MEC will monitor its recommendations to help ensure that progress stays on track. This process consists of MEC developing a monitoring plan and conducting stand-alone quarterly monitoring missions. These missions engage the officials charged with implementation, the international community, stakeholders and end users.
## VII. RECOMMENDATIONS

<table>
<thead>
<tr>
<th>NO.</th>
<th>RECOMMENDATION</th>
<th>DEADLI</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Education and Licensing</strong></td>
<td></td>
</tr>
<tr>
<td>1.</td>
<td>The AGO, Supreme Court, MOJ and AIBA should review the current delivery of Stage courses and consider eliminating them or replacing them with a single requirement that applies equally to all law practitioners.</td>
<td>December 2017</td>
</tr>
<tr>
<td>2.</td>
<td>MOHE should ensure that law faculties are separated from other disciplines in all public and private educational institutions offering law degrees. The number of accredited law faculties should be reduced and enrollment calibrated to the actual needs of the profession.</td>
<td>August 2018</td>
</tr>
<tr>
<td>3.</td>
<td>MOHE and law faculties should update the law curriculum to be more relevant to the practice of law and to ensure that law graduates have sufficient knowledge of sharia principles. Revisions to the curriculum should be done in close consultation with the provincial stakeholders.</td>
<td>August 2018</td>
</tr>
<tr>
<td>4.</td>
<td>AIBA should improve its licensing procedures and oversight to ensure that all requirements for licensing are verified by AIBA before a license is issued and that all criteria for maintaining a license in good-standing are met.</td>
<td>December 2017</td>
</tr>
<tr>
<td>5.</td>
<td>The AGO and MOJ should submit legal amendments to the Law on Structure and Authority of the AGO and the Advocates Law to introduce continuing legal education requirements for all prosecutors and defense attorneys.</td>
<td>December 2017</td>
</tr>
<tr>
<td></td>
<td><strong>Appointments and Performance Management</strong></td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>The AGO should submit legal amendments to the Law on Structure and Authority of the AGO that sets-out a procedure for prosecutors to be appointed based on merit and competition.</td>
<td>December 2017</td>
</tr>
<tr>
<td>7.</td>
<td>The AGO should develop and publish transparent criteria for deploying prosecutors outside of their assigned office and should ensure that the system for tracking deployments is fully operational.</td>
<td>December 2017</td>
</tr>
<tr>
<td>NO.</td>
<td>RECOMMENDATION</td>
<td>DEADLINE</td>
</tr>
<tr>
<td>-----</td>
<td>-------------------------------------------------------------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>8.</td>
<td>The AGO should ensure that all prosecutors and administrative staff have clear terms of reference and performance plans with specific activities, performance targets, and training needs.</td>
<td>February 2018</td>
</tr>
<tr>
<td>9.</td>
<td>The AGO should introduce caseload standards for prosecutors and track caseloads to enhance performance management and better respond to caseload fluctuations.</td>
<td>December 2017</td>
</tr>
<tr>
<td>10.</td>
<td>The AGO should implement a modern system for overseeing attendance, preferably using bio-metrics (fingerprints).</td>
<td>December 2017</td>
</tr>
<tr>
<td>11.</td>
<td>The AGO should submit amendments to the Law on Structure and Authority of the AGO that prohibits prosecutors from having outside employment in the justice system to avoid conflicts of interest.</td>
<td>December 2017</td>
</tr>
</tbody>
</table>

**Cooperation and Case Management**

<table>
<thead>
<tr>
<th>NO.</th>
<th>RECOMMENDATION</th>
<th>DEADLINE</th>
</tr>
</thead>
<tbody>
<tr>
<td>12.</td>
<td>The AGO and MOI should take measures to effectively implement the new policy on cooperation, including joint training to ensure that there is more collaboration between both.</td>
<td>December 2017</td>
</tr>
<tr>
<td>13.</td>
<td>The AGO, detection agencies and other agencies referring cases to the AGO should develop a case management protocol for submitting, registering, and tracking cases. The protocol should require all cases to be submitted to a central intake office who is responsible for logging the cases and responding to enquiries.</td>
<td>December 2017</td>
</tr>
<tr>
<td>14.</td>
<td>The AGO should enter case information into the electronic case management upon receipt of the case, and at the beginning and end of the investigation, trial and appeal stage. All cases received by the AGO should be logged, even if they are referred to another office for lack of jurisdiction. Logging should include the indictment, court decisions, and appeal arguments.</td>
<td>December 2017</td>
</tr>
<tr>
<td>15.</td>
<td>The AGO district office and referral agencies should utilize the electronic case management system. AGO districts should be provided with the necessary resources to do so.</td>
<td>January 2018</td>
</tr>
<tr>
<td>16.</td>
<td>The AGO should implement a protocol for transferring cases between districts and require that the decision to transfer a case be made available in writing to all parties.</td>
<td>December 2017</td>
</tr>
<tr>
<td>17.</td>
<td>The AGO should introduce a procedure for expediting the delivery of appeals from provinces to Kabul. Consideration should be given to using email or the case management system, or making agreements with the military or other organizations for the delivery of appeal documents.</td>
<td>December 2017</td>
</tr>
<tr>
<td>NO.</td>
<td>RECOMMENDATION</td>
<td>DEADLINE</td>
</tr>
<tr>
<td>-----</td>
<td>-------------------------------------------------------------------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>18.</td>
<td>The AGO, MOI, and the Supreme Court should reconcile their case statistics to</td>
<td>December 2017</td>
</tr>
<tr>
<td></td>
<td>assess the disparity in reported cases, backlogs, and bottlenecks.</td>
<td></td>
</tr>
<tr>
<td>19.</td>
<td>The AGO and MOJ should submit legal amendments to the Criminal Procedure Code</td>
<td>December 2017</td>
</tr>
<tr>
<td></td>
<td>or the Penal Code that introduces penalties for government officials that do</td>
<td></td>
</tr>
<tr>
<td></td>
<td>not respond to AGO criminal investigation enquiries within timelines proposed</td>
<td></td>
</tr>
<tr>
<td></td>
<td>by the AGO. These amendments should not limit the rights of officials suspected</td>
<td></td>
</tr>
<tr>
<td></td>
<td>of criminal misconduct.</td>
<td></td>
</tr>
</tbody>
</table>

**Investigations**

<table>
<thead>
<tr>
<th>NO.</th>
<th>RECOMMENDATION</th>
<th>DEADLINE</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.</td>
<td>The AGO and MOJ take steps to make more explicit presumption that bail will be</td>
<td>December 2017</td>
</tr>
<tr>
<td></td>
<td>granted in criminal cases except when the accused presents a danger to the</td>
<td></td>
</tr>
<tr>
<td></td>
<td>public or a flight risk.</td>
<td></td>
</tr>
<tr>
<td>21.</td>
<td>The AGO should introduce a mechanism to enhance prosecutor understanding of</td>
<td>December 2017</td>
</tr>
<tr>
<td></td>
<td>their responsibility to collect and present all incriminating and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>exculpatory evidence. The mechanism should also enhance knowledge of</td>
<td></td>
</tr>
<tr>
<td></td>
<td>evidentiary standards and prosecutorial discretion and encourage prosecutors</td>
<td></td>
</tr>
<tr>
<td></td>
<td>to close cases where there is insufficient evidence.</td>
<td></td>
</tr>
<tr>
<td>22.</td>
<td>The AGO and MOI should develop a more effective forensics analyzing process</td>
<td>December 2018</td>
</tr>
<tr>
<td></td>
<td>in the provinces for analyzing fingerprints, ballistics, and drugs. This</td>
<td></td>
</tr>
<tr>
<td></td>
<td>can be accomplished through the development of regional forensic labs or by</td>
<td></td>
</tr>
<tr>
<td></td>
<td>increasing the resources in the Kabul forensic lab and expediting delivery</td>
<td></td>
</tr>
<tr>
<td></td>
<td>times.</td>
<td></td>
</tr>
<tr>
<td>23.</td>
<td>The AGO should provide transportation or reimbursement for private vehicles</td>
<td>January 2018</td>
</tr>
<tr>
<td></td>
<td>of prosecutors who go to crime scenes or need to visit detention centers or</td>
<td></td>
</tr>
<tr>
<td></td>
<td>witnesses in the investigation of crimes.</td>
<td></td>
</tr>
<tr>
<td>24.</td>
<td>The AGO should work with security forces to develop a procedure to conduct</td>
<td>December 2017</td>
</tr>
<tr>
<td></td>
<td>investigations in insecure districts.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>In addition, the AGO should reimburse travel and accommodation expenses</td>
<td></td>
</tr>
<tr>
<td></td>
<td>when participants are required to travel to the district or provincial</td>
<td></td>
</tr>
<tr>
<td></td>
<td>centers for case proceedings.</td>
<td></td>
</tr>
<tr>
<td>25.</td>
<td>The Attorney General should expeditiously complete investigations into</td>
<td>December 2017</td>
</tr>
<tr>
<td></td>
<td>ministers where sufficient grounds exist and publicly report on the</td>
<td></td>
</tr>
<tr>
<td></td>
<td>outcome of those investigations.</td>
<td></td>
</tr>
</tbody>
</table>

**Court Proceedings**
<table>
<thead>
<tr>
<th>NO.</th>
<th>RECOMMENDATION</th>
<th>DEADLINE</th>
</tr>
</thead>
<tbody>
<tr>
<td>26.</td>
<td>The AGO should introduce procedures that ensure that prosecutors inform the accused and defense attorneys of indictments and appeals arguments so that the accused and defense attorneys have sufficient information to respond to the allegations and prepare a defense.</td>
<td>December 2017</td>
</tr>
<tr>
<td>27.</td>
<td>The AGO should engage the court to develop a scheduling mechanism to ensure that the AGO and defense attorneys receive sufficient notice before a court hearing is to take place as required by the Criminal Procedure Code. The mechanism should also include more court time allocated to each case and allow for more thorough examination of witnesses, and cross examination of evidence.</td>
<td>December 2017</td>
</tr>
<tr>
<td>28.</td>
<td>The Supreme Court should provide guidance to encourage courts to register acquittals where the evidence presented by the prosecutor is not sufficient to prove criminal liability. This should be supported by training on the burden of proof and standards of evidence.</td>
<td>December 2017</td>
</tr>
<tr>
<td>29.</td>
<td>The AGO should develop guidance to help prosecutors determine whether a case raises an appropriate legal issue that should be appealed.</td>
<td>December 2017</td>
</tr>
<tr>
<td>30.</td>
<td>The AGO and the Supreme Court should adopt code of ethics that prohibit prosecutors from meeting judges to discuss cases outside of an on-the-record judicial proceeding that is attended by the accused or the accused’s defense attorney.</td>
<td>December 2017</td>
</tr>
</tbody>
</table>

**Sentences, Enforcement, and Detention**

<table>
<thead>
<tr>
<th>NO.</th>
<th>RECOMMENDATION</th>
<th>DEADLINE</th>
</tr>
</thead>
<tbody>
<tr>
<td>31.</td>
<td>The AGO should submit legal amendments to the Penal Code that encourage the use of non-custodial sentences such as community service and suspended sentences where appropriate.</td>
<td>December 2017</td>
</tr>
<tr>
<td>32.</td>
<td>The AGO should publish all court decisions on its website.</td>
<td>December 2017</td>
</tr>
<tr>
<td>33.</td>
<td>The AGO Directorate of Detention Supervision should expand its activities to include detention centers at police headquarters and to review all cases of prisoners that are on “vacation”.</td>
<td>December 2017</td>
</tr>
<tr>
<td>35.</td>
<td>The AGO Directorate of Detention Supervision should utilize the electronic case management system and more</td>
<td>December 2017</td>
</tr>
<tr>
<td>NO.</td>
<td>RECOMMENDATION</td>
<td>DEADLINE</td>
</tr>
<tr>
<td>-----</td>
<td>-------------------------------------------------------------------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>35.</td>
<td>MOI and NDS should introduce guidance directing officials to allow defense attorneys to be present at the detection stage.</td>
<td>December 2017</td>
</tr>
<tr>
<td>36.</td>
<td>MOJ and MOF should reconcile the salaries of legal aid providers to ensure that there is no discrepancy between positions that are funded by different sources. Legal aid rates should be increased to mitigate the financial incentive to broker deals between clients and other justice officials.</td>
<td>December 2017</td>
</tr>
<tr>
<td>37.</td>
<td>MOJ should consolidate the legal aid function under its purview and provide resources to allow legal aid providers to access clients in the districts. The requirement for AIBA lawyers to do three pro bono cases per year should be replaced by a system that compensates private defense lawyers who do legal aid work.</td>
<td>February 2018</td>
</tr>
<tr>
<td>38.</td>
<td>AIBA should enhance its oversight of defense attorney activity and debar any lawyer found to be engaging in criminal activity or the facilitation of corruption.</td>
<td>December 2017</td>
</tr>
<tr>
<td>39.</td>
<td>The AGO and MOJ should implement a substantial legal awareness campaign in cooperation with civil society organizations that reaches into the districts and utilizes radio and religious leaders. This legal awareness campaign should include MPs, governors, and district governors to encourage them not to interfere in the work of the AGO.</td>
<td>January 2018</td>
</tr>
<tr>
<td></td>
<td><strong>Security and Facilities</strong></td>
<td></td>
</tr>
<tr>
<td>40.</td>
<td>The AGO in each province should undertake a condition and security assessment of its buildings and develop a prioritized plan to repair and replace buildings. The plans should identify the land for any new building, include construction and maintenance costs, and identify security requirements.</td>
<td>December 2017</td>
</tr>
<tr>
<td>41.</td>
<td>The AGO should develop security protocols with security agencies in their local area that includes information sharing, emergency response procedures, and security training for staff.</td>
<td>December 2017</td>
</tr>
<tr>
<td>42.</td>
<td>The AGO should implement a system that restricts access to AGO facilities to employees and registered guests so that nobody can show up without prior authorization.</td>
<td>December 2017</td>
</tr>
<tr>
<td>42.</td>
<td>The AGO and the MOJ should introduce amendments to the Law on Structure and Authority of the AGO prohibiting</td>
<td>December 2017</td>
</tr>
</tbody>
</table>

aggressively identify and investigate cases of people held for longer than the statutory requirements.
<table>
<thead>
<tr>
<th>NO.</th>
<th>RECOMMENDATION</th>
<th>DEADLINE</th>
</tr>
</thead>
<tbody>
<tr>
<td>44.</td>
<td>MPs from meeting with prosecutors unless there is a bona fide purpose. In these instances, the meetings must be approved by senior management, registered, tracked, and reported.</td>
<td></td>
</tr>
<tr>
<td>45.</td>
<td>The AGO and MOJ should propose amendments to the Law on Structure and Authority of the AGO to streamline its organizational structure with consideration given to consolidating the various oversight directorates, specialized units, and the Enforcement Directorate and the Detention Supervision Directorate. The AGO High Council membership should be revised.</td>
<td>December 2017</td>
</tr>
<tr>
<td>46.</td>
<td>The AGO should develop and implement a CBR reform proposal that incorporates organizational and human resources reforms.</td>
<td>February 2018</td>
</tr>
<tr>
<td>47.</td>
<td>The AGO should ensure that provincial offices are fully engaged in its planning and budgeting processes to ensure that their needs are better met.</td>
<td>December 2017</td>
</tr>
<tr>
<td>47.</td>
<td>AGO and donors should establish an active and effective coordination mechanism to coordinate donor activities in the justice sector and bring together donors and the AGO on a regular basis to discuss practical implementation issues.</td>
<td>December 2017</td>
</tr>
<tr>
<td>48.</td>
<td>Oversight and Complaints</td>
<td></td>
</tr>
<tr>
<td>48.</td>
<td>The AGO should ensure that oversight unit has the appropriate procedures and resources in place to provide sufficient oversight.</td>
<td>December 2017</td>
</tr>
<tr>
<td>49.</td>
<td>The AGO and HOO should ensure that all prosecutors register their assets and have them verified by the HOO.</td>
<td>December 2017</td>
</tr>
<tr>
<td>50.</td>
<td>The AGO should develop and implement a monitoring plan for all of its offices and units. Appeals Prosecutor Offices should implement monitoring plans for their districts that require periodic site visits.</td>
<td>January 2018</td>
</tr>
<tr>
<td>51.</td>
<td>The AGO should develop and publicize a streamlined complaints procedure that requires all complaints to be registered and vetted by the complaints department.</td>
<td>January 2018</td>
</tr>
</tbody>
</table>
ANNEX I: 2016 AGO ORGANIZATIONAL CHART

1. **DAG for Finance and Administrative Affairs**
   - Department of Human Resources
   - Department of Finance and Administration
   - Department of Information and Public Outreach
   - Department of Planning and Foreign Relationships
   - Gender Directorate
   - Institute of Professional Trainings

2. **DAG for Investigative Affairs**
   - Department of Crime Investigation
   - Department of Prosecutor’s Office for Corruption Crimes
   - Department of Research and Studies
   - Department of Prosecutor’s Office for Monitoring the Investigation

3. **DAG for Judicial Prosecutions**
   - Department of Prosecutor’s Office of General Punishments of the Supreme Court
   - Department of Prosecutor’s Office of Central Public Security
   - Department of Persecutor’s Office of the Supreme Court
   - Department of Appeals Prosecutor’s Office of the Capital
   - Department of Prosecutor’s Office for Monitoring the Execution of Orders
   - Department of Prosecutor’s office of Monitoring on Deprivation of Freedom
4. General Department of Prosecutor’s Office of Internal and External Crimes

- Departments of Primary Prosecutor’s Office of 33 provinces
- Department of Prosecutor’s Office of Bagram prison
- Department of Correspondence and Secretariat
- Department of Prosecutor’s Office of Cassation
- Department of Appeals Prosecutor’s office
- Department of Prosecutor’s Office of Deprivation Freedom and Execution of Orders
- Department of Prosecutor’s Office of Anti-Corruption
- Department of Prosecutor’s Office of Monitoring the Investigation
- Department of Prosecutor’s Office of Audit and Supervision
- Department of Personnel and Administrative Affairs
- Department of Primary Special Juvenile Prosecutor’s Office
- Directorates of Investigation of Financial Statistics and Logistics

5. DAG of AGO in Military Affairs

- Department of Military Prosecutors of Anti-Corruption
- Department of Appeal Military Prosecutors Office
- Department of Military Primary Prosecutors Office of Provinces
- General Directorate of Administration and Finance
- Department of Cadre and Personnel
- General Department of the Appeal Prosecutor Office in center
- Department of the Primary Prosecutor of MOI
Directorate of Documents and Communication

Department of Planning and Analysis of Crime Statistic

Department of Prosecutor of Monitoring on the Implementation of Orders

Department of Prosecutor of Monitoring and Investigation

Department of Prosecutor Office of Monitoring on the Deprivation of Freedom

Department of Crime Investigation

Department of Prosecutor Office of the Military Supreme Court

6. DAG for EVAW, Juvenile, and Human Rights

7. Department of Prosecutor’s Office of Counter Smuggling and Narcotic

8. Department of Appeals Prosecutor’s Office of the West Zone

9. Department of Appeals Prosecutor’s Office of the East Zone

10. Advisors Board

11. Kabul Department of Appeals Prosecutor’s Office

12. Department of Correspondence and Secretariat

13. Department of Attorney General Office

14. Department of Audit

15. Department of Appeals Prosecutor’s office of 33 Provinces

16. Department of Appeals Prosecutor’s Office of North Zone

17. Department of Appeals Prosecutor’s Office of East Zone

18. Department of Appeals Prosecutor’s Office of Control and Supervision
ANNEX II: METHODOLOGY

This assessment was conducted over a 17-week period by a core team of four individuals comprised of one international expert and three MEC local national staff led by a member of MEC. The first two weeks was spent undertaking a desk study to develop the legal framework for the AGO, the criminal justice process and related justice intuitions. This framework formed the basis for a five-week field mission to Kabul and the provinces of Herat, Kandahar and Balkh. The field mission resulted in over 230 interviews, including over one hundred in the provincial centers, four roundtables with defense attorneys and interviews with over 60 end users.

In Kabul, the assessment team interviewed and met with senior officials from AGO directorates including Criminal Investigation, Anti-Corruption Investigation, Supervision of Investigation, Supreme Court Prosecution, Appellate Prosecution, Public Security Prosecution, Provisions Enforcement, Oversight of Detention Centers, EVAW, Human Resources, Administration and Finance, Communications and Public Awareness, Planning and Foreign Relations, Institute of Professional Training, Military Anti-Corruption Prosecution, Inspection, Correspondence / High Council Secretariat, and Control.

The assessment team also met with other entities involved in the justice sector such as the MOI-CID, MOI Prisons and Detention, MCTF, the Supreme Court, MOJ Legal Aid, MOJ Taqnin, MOF CBR, MOF Policy Directorate, ACJC, AIBA, ILFA, AIHRC, FINTRACA, HOO, IARCSC, MOHE, SAO, NPA, petition writers, and defense attorneys. As well as education providers, such as the Kabul University, Faculty of Law, Kabul University, Faculty of Sharia, NLTC, Maiwand Khawar, and donors, implementing partners, international organizations, and civil society organizations, including UNODC, EUPOL, GIZ, IDLO, INL, JSSP, World Bank, European Union, Asia Foundation, UNAMA, Checchi, Integrity Watch Afghanistan, and CPAU.

Herat interviewees included AGO Appeal Prosecution Office, EVAW Prosecution Department, Anti-Corruption Investigations, Administration, Provincial Prosecutions, Monitoring and Evaluation, Military Prosecutions Appeals, Primary Court, Appeals Court, MOI Detention, MOJ Legal Aid, MOI-CID, AIBA, AIHRC, Herat University Faculty of Law, Herat University Faculty of Sharia, Petition writers, end users, and defense attorneys.

Kandahar interviewees included AGO Appeal Prosecution Office, Administration, Investigations, Anti-Corruption Investigations, Provincial Primary Prosecutor, Primary Court, Appeal Court, MOI Detention, MOJ Legal Aid, petition writer, end users, defense attorneys, AIBA, AIHRC, Kandahar University Faculty of Law, Kandahar University Faculty of Sharia, and UNAMA.
Mazar interviews included AGO Appeals Prosecution Office, Administration, Investigations, Anti-Corruption Unit, Provincial Prosecutors, EVAW, Military Prosecution, Monitoring and Evaluation, Primary Court, Appeal Court, MOI Detention, MOJ Legal Aid, MOI-CID, AIBA, AIHRC, Balkh University, Balkh University Faculty of Law, Balkh University Faculty of Sharia, end users, and defense attorneys.

The assessment also incorporated material from interviews that MEC conducted with Bamyan provincial officials in November 2016, namely the Provincial Governor and members of the Provincial Council, AGO and Appeals Court, and Badakhshan officials from the police, AGO, Appeals Court and Civil Society.

After the field work was completed the assessment was substantially drafted and discussed by MEC. The report and its recommendations were then shared with a select group of government officials and members of the international community to ensure the feasibility and soundness of the recommendations. Consultations were held in January 2017 and comments received at that time were integrated into the final report.
References

2. Ibid
3. Interview Herat Primary Court official, Herat, November 13, 2016.
4. AGO Report on Reforms and Achievements
5. AGO’s proposal # 665 (Feb 2017) and Presidential Approval Order # 4249 (Feb 2017) in regard to Afg 800 million for salaries, expenses of ACJC, and increase of civil and military prosecutors
7. Presidential Order # 2610 dated May 27th, 2016
8. List of the AGO’s staff who have been expelled due to absenteeism or corruption during Mar 2016 – Feb 2017
10. AGO’s Official Report in response to MEC’s questions
11. AGO Report on Reforms and Achievements
12. MoU on cooperation and coordination between Police and Prosecutors signed by Minister of Interior Taj Mohammad Jahed and AG Farid Hamidi on May 28th, 2016
13. Interview with officials from an international justice consulting firm, Kabul, November 10, 2016.
14. Law on Structure and Authority of the AGO, 2013, article 3.
15. Constitution of Afghanistan, article 134; and Law on Structure and Authority of the AGO, 2013, article 4.
16. Constitution of Afghanistan, article 153
17. Law on Structure and Authority of the AGO, 2013, article 8.
18. Law on Structure and Authority of the AGO, 2013, article 7, article 9, and article 36
19. Afghan National Budget for 1395.
20. Law on Structure and Authority of the AGO, 2013, article 7 and 12.
22. Law on Structure and Authority of the AGO, 2013, article 7; and Law on Overseeing the Implementation of the Anti-Administrative Corruption Strategy, article 19.
24. Law on Structure and Authority of the AGO, 2013, article 7; and Law on Overseeing the Implementation of the Anti-Administrative Corruption Strategy, article 19.
25. Law on Structure and Authority of the AGO, 2013, article 7.
26. Law on Structure and Authority of the AGO, 2013, article 7.
27. Law on Structure and Authority of the AGO, 2013, article 7 and article 16; Interview with Kabul AGO Research and Studies Directorate official, Kabul, November 22, 2016; and Interview with AGO Criminal Investigations Department senior official, Kabul, November 6, 2016.
28. Law on Structure and Authority of the AGO, 2013, article 7 and 12.
29. Law on Structure and Authority of the AGO, 2013, article 7 and 14.
30. Law on Structure and Authority of the AGO, 2013, article 17 and 18.
31. Law on Structure and Authority of the AGO, 2013, article 7 and article 15.
32. Law on Structure and Authority of the AGO, 2013, article 7 and article 12.
33. Interview with Kabul AGO Military Anti-Corruption prosecutor, Kabul, November 14, 2016.
35. Law on Structure and Authority of the AGO, 2013, article 7.
63 Interview with Kabul AGO EVAW Directorate, Kabul, November 22, 2016
64 Interview with Kabul AGO EVAW Directorate, Kabul, November 22, 2016
65 Law on Structure and Authority of the AGO, 2013, article 7 and 12
66 Law on Structure and Authority of the AGO, 2013, article 5.
68 Interview with an official from the Herat AGO Appeals Prosecutor’s Office, Herat, November 12, 2016.
69 Interview with an official from the Kandahar AGO Appeals Prosecutor’s Office, Kandahar, November 15, 2016
70 Interview with an official from the Kabul AGO Appeals Prosecutor’s Office, November 6, 2016.
72 Interview with officials from the Herat AGO Administration department, Herat, November 12, 2016; and Interview with AGO Human Resources Directorate official, Kabul, November 25, 2016.
73 Interview with an official from the Kabul AGO Appeals Prosecutor’s Office, November 6, 2016; Interview with an official from the Herat AGO Appeals Prosecutor’s Office, Herat, November 12, 2016; Interview with an official from the Kandahar AGO Appeals Prosecutor’s Office, Kandahar, November 15, 2016; Interview with Balkh AGO Criminal Investigations prosecutor, Mazar, November 20, 2016; interview with an official from the Balkh AGO Appeals Prosecutor’s Office, Mazar, November 20, 2016; and Interview with an official from the Kabul AGO Directorate for the Oversight of Detention Centers and Prisons, Kabul, November 25, 2016.
74 Interview with officials from the Herat AGO Administration department, Herat, November 12, 2016.
75 Interview with Kandahar AGO Administration official, Kandahar, November 16, 2016.
76 Interview with Balkh AGO Administration officials, November 20, 2016.
77 Interview with Kandahar AGO Administration official, Kandahar, November 16, 2016.
78 Interview with an official from the Kandahar AGO Appeals Prosecutor’s Office, Kandahar, November 15, 2016
79 Interview with AGO Human Resources Directorate official, Kabul, November 25, 2016.
80 AGO Strategy (1391-1395).
81 Afghanistan Constitution, Article 134
82 Police Law, 2005, article 5; and Criminal Procedure Code 2014, articles 20 and 80.
83 Criminal Procedure Code, 2014, article 80.
84 Criminal Procedure Code, 2014, article 87.
85 Interview with Kabul MOI CID official, Kabul, October 29, 2016.
86 Interview with Balkh MOI CID officials, Mazar, November 20, 2016; and interview with Herat MOI CID official, Herat, November 13, 2016.
87 Interview with Kabul MOI CID official, Kabul, October 29, 2016.
88 Interview with Kabul MOI CID official, Kabul, October 29, 2016.
89 Interview with Kabul MOI CID official, Kabul, October 29, 2016.
90 Interview with Kabul MOI CID official, Kabul, October 29, 2016; and Interview with EUPOL official, Kabul, November 3, 2016.
91 Interview with EUPOL official, Kabul, November 3, 2016.
92 Procedure on Coordination and Cooperation of Police and Prosecutors, article 10.
93 Interview with an official from the MOI CID Herat, November 13, 2016; interview with Kandahar AGO Criminal Investigations prosecutor, Kandahar, November 16, 2016; interview with an official from the Balkh AGO Appeals Prosecutor’s Office, Mazar, November 20, 2016; interview with an official from the Herat AGO Appeals Prosecutor’s Office, Herat, November 12, 2016; interview with Balkh MOI CID officials, Mazar, November 20, 2016


68 Interview with Balkh MOI CID officials, Mazar, November 20, 2016

69 Interview with EUPOL official, Kabul, November 3, 2016; and interview with Kandahar AGO Criminal Investigations Directorate, Kandahar, November 16, 2016.

70 Interview with MCTF officials, Kabul November 3, 2016

71 Criminal Procedure Code on Terrorist Crimes and Crimes against Internal and External Security, article 2.

72 National Integrity System Assessment, Transparency International, Afghanistan 2015, page 28; and Decree 61, President of the Islamic Republic of Afghanistan Regarding effective and practical fight against corruption, 1388/12/27, article 6.

73 Law on Overseeing the Implementation of the Anti-Administrative Corruption Strategy, article 13.

74 Audit Law, article 10, article 11, article 16, and article 21; and Internal Audit Manual, article 7 and article 17.


77 Interview with National Procurement Authority officials, Kabul, November 1, 2016.

78 Law on the Structure, Duties and Mandate of the AIHRC, 2005, article 21 and article 23; and Interview with AIHRC Commissioner, Kabul, October 31, 2016.

79 Income Tax Manual, 2010, article 101, article 102, article 103 and article 104, and article 106.

80 Customs Law, 2005, article 170.

81 Interview with Kabul MOI CID official, Kabul, October 29, 2016

82 Interview with MCTF officials, Kabul November 3, 2016; and Overview of MCTF cases

83 Law on Overseeing the Implementation of the Anti-Administrative Corruption Strategy, article 18; and Audit Law, article 17.

84 Interview with HOO official, Kabul, November 2, 2016.

85 SAO statistics

86 Interview with National Procurement Authority officials, Kabul, November 1, 2016.

87 List of cases have been sent by HOO to AGO since 2010


89 AGO Crime Statistics for 1394.

90 Interview with Balkh AGO Criminal Investigations prosecutor, Mazar, November 20, 2016; interview with an official from the Balkh AGO Appeals Prosecutor’s Office, Mazar, November 20, 2016; Interview with Herat AGO Appeals Prosecutor’s Office, Herat, November 12, 2016; and Interview with Herat MOI CID official, Herat, November 13, 2016.

91 Interview with Kabul AGO Study and Research department official, Kabul, November 22, 2016.

92 End User interview from Kabul, Herat, Mazar and Kandahar conducted in November 2016, Kabul 5, 25

93 Interview with AGO Criminal Investigations Department senior official, Kabul, November 6, 2016.
Interview with AGO Criminal Investigations Department senior official, Kabul, November 6, 2016.
Interview with Herat Appeals Court judge, Herat, November 7, 2016.
End User interview from Kabul, Herat, Mazar and Kandahar conducted in November 2016, Kabul 22.
Criminal cases prosecution form.
Memorandum of Understanding between all judicial organs on Case Management System, 1388.
Interview with Kabul AGO Directorate of Investigation prosecutor, November 23, 2016.
Interview with AGO Criminal Investigations Department senior official, Kabul, November 6, 2016
Interview with AGO Criminal Investigations Department senior official, Kabul, November 6, 2016
Afghanistan Constitution, article 134.
Criminal Procedure Code 2014, articles 89, 145, and 146.
Criminal Procedure Code, 2014, article 149.
Interview with Kandahar AGO Criminal Investigations Directorate, Kandahar, November 16, 2016; interview with Kabul AGO Directorate of Investigation prosecutor, November 23, 2016; and interview with Kabul AGO Appeals Prosecutor’s Office, November 6, 2016.
End User interview from Kabul, Herat, Mazar and Kandahar conducted in November 2016, Kabul 1, 2, 3, 17, 20, 27, 30; Herat 4, 13; Kandahar 5, 7, 8, 11.
Criminal Procedure Code, 2014, article 165; and Kandahar, court cover sheet template
Kabul Defense Attorney Roundtable, Kabul, November 10, 2016; Interview with Herat Appeals Court judge, Herat, November 13, 2016; and Defense Attorney survey from Kabul, Herat, Mazar and Kandahar conducted in November 2016, Herat 1, 6, Mazar 1.
Interview with EUPOL official, Kabul, November 3, 2016; and Interview with officials from IWA, Kabul, October 10, 2016.
Interview with Balkh AGO Monitoring and Evaluation directorate prosecutor, Mazar, November 20, 2016.
Interview with Kabul Defense attorney, Kabul, October 25, 2016.
Interview with Kandahar AGO Criminal Investigations Directorate, Kandahar, November 16, 2016; and interview with AGO Criminal Investigations Department senior official, Kabul, November 6, 2016.
Interview with Kandahar Primary Court and Court of Appeal judges, Kandahar, November 16, 2016; and Interview of Bamyan AGO officials, Bamyan, November 6, 2016.
Interview with Kabul AGO Anti-Corruption Investigations Directorate prosecutor, Kabul, November 14, 2016; Interview with Herat AGO EVAW Directorate prosecutor, Herat, November 12, 2016; Interview with the Supervision of Investigation Directorate, Kabul, November 25, 2016; Interview with Balkh AGO General Crime Unit, Mazar, November 20, 2016; Interview with Kandahar AGO Anti-Corruption Prosecutor, Kandahar, November 16, 2016; Interview with AGO Kabul Anti-Corruption Department for Military Prosecutions, Kabul, November 14, 2016; Interview with Balkh AGO Anti-Corruption Investigations Directorate prosecutor, November 20, 2016; Interview with Balkh AGO Criminal Investigations prosecutor, Mazar, November 20, 2016; and Interview with Kabul AGO Appeals Prosecutor’s Office, November 6, 2016.
Interview with officials from the Herat AGO Administration department, Herat, November 12, 2016; and Interview with Kandahar AGO Administration official, Kandahar, November 16, 2016.
Interview with an official from the Kandahar AGO Anti-Corruption Prosecutor, Kandahar, November 16, 2016.
Interview with an official from the Kandahar AGO Appeals Prosecutor’s Office, Kandahar,
November 15, 2016.

119 Criminal Procedure Code, 2014, article 167
120 Interview with Prosecutor Directorate of Public Security, Kabul, November 27, 2016; interview with Herat AGO Primary Provincial Prosecution Office prosecutor, Herat, November 12, 2016; and Interview with Herat AGO Primary Provincial Prosecution Office prosecutor, Herat, November 12, 2016
121 Criminal Procedure Code, 2014, article 168.
122 Criminal Procedure Code, 2014, article 176.
123 Interview with Prosecutor Directorate of Public Security, Kabul, November 27, 2016; interview with Herat AGO Primary Provincial Prosecution Office prosecutor, Herat, November 12, 2016; and Interview with Herat AGO Primary Provincial Prosecution Office prosecutor, Herat, November 12, 2016.
125 Criminal Procedure Code, 2014, article 203
126 Interview with Herat Primary Court judge, Herat, November 13, 2016. Interview with Herat Primary Court judge, Herat, November 13, 2016.
127 Interview with Kabul AGO Study and Research department official, Kabul, November 22, 2016.
128 Court reported Crime Statistics for 1394.
130 Criminal Procedure Code, 2014, article 179.
131 Interview with Herat Appeals Court judge, Herat, November 7, 2016.
132 Interview with Kandahar Legal Aid Office, Kandahar, November 16, 2016; interview with Herat Primary Court judge, Herat, November 13, 2016; interview with Balkh AGO Provincial Prosecution Office prosecutor, Mazar, November 20, 2016; and interview with Kandahar AGO Provincial Public Prosecutor, Kandahar, November 16, 2016.
134 Criminal Procedure Code, 2014, article 212.
135 Interview with Kandahar Legal Aid Office, Kandahar, November 16, 2016; interview with Prosecutor Directorate of Public Security, Kabul, November 27, 2016; interview with Kandahar AGO Provincial Public Prosecutor, Kandahar, November 16, 2016; and interview with Herat AGO Primary Provincial Prosecution Office prosecutor, Herat, November 12, 2016.
137 Ibid
139 Interview with Kandahar Legal Aid Office, Kandahar, November 16, 2016; interview with Kandahar AGO Provincial Public Prosecutor, Kandahar, November 16, 2016; interview with Herat AGO Primary Provincial Prosecution Office prosecutor, Herat, November 12, 2016; interview with Herat Primary Court judge, Herat, November 13, 2016; and interview with Balkh AGO Provincial Prosecution Office prosecutor, Mazar, November 20, 2016.
140 Interview with Prosecutor Directorate of Public Security, Kabul, November 27, 2016.
141 Interview Herat Primary Court official, Herat, November 13, 2016; Interview with Kandahar AIABA official, Kandahar, November 16, 2016; interview with Kandahar Appeals Court judge, Kandahar, November 16, 2016; and Interview with Mazar judge, Mazar, November 19, 2016.
142 Interview with Herat Appeals Court judge, Herat, November 13, 2016.
143 Interview with Kabul Defense attorney, Kabul, October 25, 2016; interview with Mazar Defense Attorney. Mazar Defense Attorney Roundtable, Mazar, November 19, 2016; and interview with Mazar Primary Court judge, Mazar, November 19, 2016; Interview with Mazar judge, Mazar, November 19, 2016; and Interview with officials from IWA, Kabul, October 10, 2016.  
144 Interview with Kandahar AIBA official, Kandahar, November 16, 2016.  
146 Criminal Procedure Code, 2014, article 233.  
147 Afghanistan Constitution, article 27, and article 129; and Criminal Procedure Code, 2014, article 239.  
150 Law on Organization and Jurisdiction of the Courts of the Islamic Republic of Afghanistan, 2005, article 76.  
151 Penal Code, 1976, article 23.  
152 Penal Code, 1976, article 24, article 97, article 99, article 100, article 101 and article 102.  
153 Penal Code, 1976, article 25.  
155 Penal Code, 1976, article 149.  
156 Penal Code, 1976, article 148.  
157 Afghanistan Constitution article 129; and Criminal Procedure Code, 2014, article 301 and article 352.  
158 Herat Defense Roundtable, Herat, November 12, 2016., Herat, November 12,  
159 Interview with Supreme Court official, Kabul, November 9, 2016; interview with Mazar Primary Court judge, Mazar, November 19, 2016  
160 Interview with Mazar judge, Mazar, November 19,  
161 Kabul Defense Attorney roundtable, Kabul, November 10, 2016; and Interview with Mazar judge, Mazar, November 19, 2016  
162 Interview with Kabul MOJ Legal Aid Department official, Kabul, October 29,  
163 Interview with Kabul AGO Study and Research department official, Kabul, November 22,  
164 Court reported Crime Statistics for 1394.  
165 Criminal Procedure Code, 2014, article 246.  
166 Criminal Procedure Code, 2014, article 253.  
167 Interview with Kabul AGO Appeal Prosecution Directorate, Kabul, November 25, 2016.  
168 Law on Structure and Authority of the AGO, 2013, article 24.  
169 Interview with Kabul AGO Appeal Prosecution Directorate, Kabul, November 25, 2016.  
170 Interview with Kabul AGO Appeal Prosecution Directorate, Kabul, November 25, 2016.  
171 Interview with the Kabul AGO Supreme Court Prosecution Directorate prosecutor, Kabul, November 22, 2016.  
173 Criminal Procedure Code, 2014, article 256.  
174 Criminal Procedure Code, 2014, article 266.  
177 Criminal Procedure Code, 2014, article 268.  
178 Interview with Balkh AGO General Crime Unit, Mazar, November 20, 2016.; and Interview with
Kabul AGO Appeal Prosecution
Directorate, Kabul, November 25, 2016.


Criminal Procedure Code, 2014, article 270.

Interview with Kabul AGO Study and Research department official, Kabul, November 22, 2016.

Interview with the Kabul AGO Supreme Court Prosecution Directorate prosecutor, Kabul, November 22, 2016.

Interview with the Kabul AGO Supreme Court Prosecution Directorate prosecutor, Kabul, November 22, 2016.

Interview with the Kabul AGO Supreme Court Prosecution Directorate prosecutor, Kabul, November 22, 2016.

Interview with the Kabul AGO Supreme Court Prosecution Directorate prosecutor, Kabul, November 22, 2016.

Interview with the Kabul AGO Supreme Court Prosecution Directorate prosecutor, Kabul, November 22, 2016.

Law on Organization and Jurisdiction of the Courts of the Islamic Republic of Afghanistan, 2005, article 26 and article 27; and

Criminal Procedure Code, 2014, article 275 and article 279.


Criminal Procedure Code, 2014, article 284.

Criminal Procedure Code, 2014, article 303.


Interview with the Kabul AGO Sentence Enforcement Directorate, Kabul, November 25, 2016.

Criminal Procedure Code, 2014, article 335.

Afghanistan Constitution Article 164; and Criminal Procedure Code 2014, article 348.


Court reported Crime Statistics for 1394.

Ibid


Interview with Balkh AGO Anti-Corruption Investigations Directorate prosecutor, November 20, 2016; and interview with Herat AGO Appeals Prosecutor’s Office, Herat, November 12, 2016.

Interview with Kandahar AGO Anti-Corruption Prosecutor, Kandahar, November 16, 2016.


List of the AGO’s employees who have been fired due to corruption and absenteeism during 2016.


Corruption in Afghanistan, Recent Patterns and Integrity Challenges in the public Sector UNODC / HOO, October 2013, page 6, 23, and 24.

Assessment team observation, November 12, 2016.

Interview with former advisor to the president of Afghanistan, Kabul, November 7, 2016.

Interview with Bamiyan Provincial Governor, November 5, 2016.

Interview with Badakhshan Appeals Court judge, July 20, 2016.

ACJC Presidential Decree, article 1 and article 2.

Interview with ACJC official, Kabul, November 28, 2016.

Interview with ACJC’s prosecutor, Kabul, November 28, 2016. Interview with ACJC’s official, November 28, 2016.

Interview with ACJC’s official, November 28, 2016.

Senior Officials Set to Go on Trial: AGO, TOLO News, Sharif Amiry, November 15, 2016; Anti-corruption justice center holds first trial, Navid Ahmad Barakzai, Nov 12, 2016; and Military Attorney Sentenced to Over Two Years in Prison for Graft, TOLO News, Mir Abed Joenda November 19, 2016.


Finally, Afghanistan is trying to penetrate and purge high-level corruption, Washington Post, Pamela Constable, November 25, 2016; Senior Officials Set to Go on Trial: AGO, TOLO News, Sharif Amiry, November 15, 2016; Anti-corruption justice center holds first trial, Navid Ahmad Barakzai, Nov 12, 2016; Interview with international organization official, Kabul, October 30, 2016; and Meshrano Jirga Plenary Report, December 18, 2016.


Law on Structure and Jurisdiction of Special Courts, article 5.


Interview with former advisor to the president of Afghanistan, Kabul, November 7, 2016.

Interview with international justice official, Kabul, November 9, 2016.

Interview with ACJC Prosecutor, Kabul, November 28, 2016.

Interview with ACJC official, Kabul, November 28, 2016; and AGO Reforms and Achievements, Government of the Islamic Republic of Afghanistan, January 8, 2017.

Interview with Kabul MOI Detention and Prisons, Kabul, November 5, 2016.

List of detainees and prisoners of Herat! 1395/8/23

Interview with Kandahar MOI Detention and Prisons Official, Kandahar, November 16, 2016.

Interview with Mazar MOI Detention and Prisons Official, Mazar, November 21, 2016.

Police Law, 2005, article 9, article 11 and article 25; and Criminal Procedure Code, 2014, article 81.

Interview with Kabul MOI Detention and Prisons, Kabul, November 5, 2016.

Interview with Kabul MOI Detention and Prisons, Kabul, November 5, 2016; Interview with Kabul MOJ Legal Aid Department official, Kabul, October 29, 2016; Interview with Kandahar AGO Criminal Investigations Directorate, Kandahar, November 16, 2016.

Interview with Kabul MOI Detention and Prisons, Kabul, November 5, 2016; Interview with Kabul MOJ Legal Aid Department official, Kabul, October 29, 2016; Interview with Kandahar AGO Criminal Investigations Directorate, Kandahar, November 16, 2016.

Corruption in Afghanistan, Recent Patterns and Integrity Challenges in the public Sector UNODC / HOO, October 2013, page 37.

Article 86, Criminal Procedure Code, 2014, article 86.

Criminal Procedure Code, 2014, article 88, article 100 and article 105.

Herat Defense Roundtable, Herat, November 12, 2016; and Kabul Defense Attorney roundtable, Kabul, November 10, 2016

Interview with Kabul MOI Detention and Prisons, Kabul, November 5, 2016.


Interview with Kabul MOI Detention and Prisons, Kabul, November 5, 2016.

Criminal Procedure Code, 2014, article 99 and article 103.
Interview with Kandahar MOI Detention and Prisons Official, Kandahar, November 16, 2016; and Interview with Kabul MOI Detention and Prisons, Kabul, November 5, 2016.

MoU on Cooperation and Coordination between police and prosecutors signed on May 28th, 2016

Interview with Herat MOJ Legal Aid official, Herat, November 12, 2016; and Interview with Kabul MOI Detention and Prisons, Kabul, November 5, 2016.

Interview with Herat MOI Detention and Prisons official, Herat, November 13, 2016; Interview with Mazar MOI Detention and Prisons Official, Mazar, November 21, 2016; and Interview with Mazar ILFA official, Mazar, November 21, 2016; and Interview with Mazar MOJ Legal Aid Official, Mazar, November 19, 2016.

MEC MVCA team observation in Mazar, November 20, 2016.

Interview with Mazar AIBA official, Mazar, November 21, 2016; Interview with Kandahar Legal Aid Office, Kandahar, November 16, 2016; Kabul Defense Attorney roundtable, Kabul, November 10, 2016; Interview with Balkh AGO Criminal Investigations prosecutor, Mazar, November 20, 2016; Assessment team observation in Herat, November 12, 2016; and Interview with Mazar MOI Detention and Prisons Official, Mazar, November 21, 2016.

Interview with Kabul MOI Detention and Prisons, Kabul, November 5, 2016; Interview with Kabul MOI Directorate for the Oversight of Detention Centers and Prisons, Kabul, November 25, 2016; MOJ General Directorate of Legal and National Legal Aid Policy, 2011 article 5.1; Interview with Kandahar MOI Detention and Prisons Official, Kandahar, November 16, 2016; Realizing Self-Reliance Commitments to Reforms and Renewed Partnership, London Conference on Afghanistan, December 2014; Interview with Mazar MOI Detention and Prisons Official, Mazar, November 21, 2016; Interview with Kabul MOI Detention and Prisons, Kabul, November 5, 2016; Kabul Defense Attorney roundtable, Kabul, November 10, 2016; AGO list of accused in detention longer than 3 months. 1391/8/2; Supreme Court order to Appeal Court of Kabul; and Interview with Kandahar AIHRC officials, Kandahar, November 16, 2016.

Interview with Kandahar AIHRC officials, Kandahar, November 16, 2016.

Interview with Kabul MOJ Legal Aid Department official, Kabul, October 29, 2016.

Interview with Kabul Defense lawyer, Kabul, October 25, 2016; Interview with Kabul MOI CID official, Kabul, October 29, 2016; Interview with AIHRC Commissioner, Kabul, October 31, 2016; Interview with Supreme Court official, Kabul, November 9, 2016; and Interview with Kabul MOI CID official, Kabul, October 29, 2016.

Interview with Kandahar MOI Detention and Prisons Official, Kandahar, November 16, 2016.

Interview with Kandahar MOI Detention and Prisons Official, Kandahar, November 16, 2016.

Law on Prisons and Detention Centers, article 22 and article 51.

Interview with Kabul AGO Directorate for the Oversight of Detention Centers and Prisons, Kabul, November 25, 2016.

Criminal Procedure Code, 2014, article 104.

Interview with Kabul AGO Directorate for the Oversight of Detention Centers and Prisons, Kabul, November 25, 2016.

Interview with Kandahar Appeals Court judge, Kandahar, November 16, 2016.


Afghanistan Constitution, Article 31.


Criminal Procedure Code, 2014, article 150.


Istalam for suspects

MOJ General Directorate of Legal and National Legal Aid Policy, 2011, article 5.1; and Kabul Defense Attorney roundtable, Kabul, November 10, 2016.

Herat Defense Roundtable, Herat, November 12, 2016; and Interview with Kabul MOJ Legal Aid
Department official, Kabul, October 29, 2016.
268 Interview with Herat Appeals Court judge, Herat, November 13, 2016.
269 Interview with Kabul MOJ Legal Aid Department official, Kabul, October 29, 2016; Interview with Kandahar Appeals Court judge, Kandahar, November 16, 2016; and Defense Attorney survey from Kabul, Herat, Mazar and Kandahar conducted in November 2016, Herat 3, 5, Kabul 1.
271 Criminal Procedure Code, 2014, article 148 and article 152.
273 Interview with Kabul MOJ Legal Aid Department official, Kabul, October 29, 2016; Kabul Defense Attorney roundtable, Kabul, November 10, 2016; Interview with Kandahar AGO Criminal Investigations Directorate, Kandahar, November 16, 2016; and Interview with Herat MOJ Legal Aid official, Herat, November 12, 2016.
274 Most crime suspects denied access to legal aid, Ahmad Barakzai, Pajhwok Afghan News, November 8, 2016.
275 Interview with Mazar ILFA official, Mazar, November 21, 2016; and Mazar Defense Attorney Roundtable, Mazar, November 19, 2016.
276 Interview with Mazar ILFA official, Mazar, November 21, 2016; Interview with Kabul ILFA official, Kabul, October 29, 2016; Interview with Kandahar AGO Criminal Investigations Directorate, Kandahar, November 16, 2016; Interview with Kandahar AIBA official, Kandahar, November 16, 2016; Mazar Defense Attorney Mazar Defense Attorney Roundtable, Mazar, November 19, 2016; Defense Attorney survey from Kabul, Herat, Mazar and Kandahar conducted in November 2016, Kabul 5, Kandahar 1; and Defense Attorney survey from Kabul, Herat, Mazar and Kandahar conducted in November 2016, Herat 5, Kandahar 4
277 Interview with Herat Primary Court judge, Herat, November 13, 2016; and Interview with Herat AGO Primary Provincial Prosecution Office prosecutor, Herat, November 12, 2016.
278 Interview with Kabul ILFA official, Kabul, October 29, 2016.
279 Interview with Kabul MOJ Legal Aid Department official, Kabul, October 29, 2016.
280 Interview with Mazar AIBA official, Mazar, November 21, 2016.
282 Interview with Kandahar AIBA official, Kandahar, November 16, 2016; Mazar Defense Attorney Roundtable, Mazar, November 19, 2016; Interview with Kandahar ILFA defense attorney, Kandahar November 15, 2016; and Interview with Herat AIBA official, November 12, 2016.
284 Ibid.
285 Interview with Mazar AIBA official, Mazar, November 21, 2016; Interview with Mazar MOJ Legal Aid Official, Mazar, November 19, 2016.
286 Interview with Kandahar ILFA defense attorney, Kandahar November 15, 2016; Interview with Kandahar AIBA official, Kandahar, November 16, 2016; and Interview with Kandahar Legal Aid Office, Kandahar, November 16, 2016.
287 Interview with Herat MOJ Legal Aid official, Herat, November 12, 2016.
290 Interview with Supreme Court official, Kabul, November 9, 2016.
Interview with officials from an international justice consulting firm, Kabul, November 10, 2016; Interview with Asia Foundation official, Kabul, October 30, 2016; Interview with an international justice organization official, Kabul, October 30, 2016.

End User interview from Kabul, Herat, Mazar and Kandahar conducted in November 2016, Kabul 1, 11, and 21; Herat 12 and 14.

Interview with Kabul MOJ Legal Aid Department official, Kabul, October 29, 2016.

Interview with Kandahar AIBA official, Kandahar, November 16, 2016.

Interview with Herat AIBA official, November 12, 2016.

Interview with Kabul MOJ Legal Aid Department official, Kabul, October 29, 2016.

Afghanistan Constitution article 31; Law on Organization and Jurisdiction of the Courts 2005, article 11; and Advocates’ Law, 2007, article 2 and article 3.

Interview with Kabul MOJ Legal Aid Department official, Kabul, October 29, 2016.

Interview with Kabul MOJ Legal Aid Department official, Kabul, October 29, 2016.

Interview with Kabul MOJ Legal Aid Department official, Kabul, October 29, 2016.

Interview with AIBA officials, Kabul, October 24, 2016; and Interview with Kabul MOJ Legal Aid Department official, Kabul, October 29, 2016.

Interview with Mazar AIBA official, Mazar, November 21, 2016.

Interview with Kabul MOJ Legal Aid Department official, Kabul, October 29, 2016; Interview with Herat MOJ Legal Aid official, Herat, November 12, 2016; and Interview with Kandahar ILFA defense attorney, Kandahar November 15, 2016.

Legal Aid Procedure/ 1390

Interview with Herat MOJ Legal Aid official, Herat, November 12, 2016; Interview with Kabul ILFA official, Kabul, October 29, 2016; and Report on proceedings of Legal Aid Department of Ministry of Justice.

Interview with Kandahar Legal Aid Office, Kandahar, November 16, 2016; Interview with Herat MOJ Legal Aid official, Herat, November 12, 2016; Interview with Mazar MOJ Legal Aid Official, Mazar, November 19, 2016; Interview with Mazar ILFA official, Mazar, November 21, 2016; and Interview with Herat MOJ Legal Aid official, Herat, November 12, 2016.

Interview with Kabul ILFA official, Kabul, October 29, 2016.

Interview with Asia Foundation official, Kabul, October 30, 2016.

Corruption in Afghanistan, Recent Patterns and Integrity Challenges in the public Sector UNODC/HOO, October 2013, page 37.

Interview with Supreme Court official, Kabul, November 9, 2016.

Interview with Kabul AGO Appeals Prosecutor’s Office, November 6, 2016; Interview with Balkh AGO Criminal Investigations prosecutor, Mazar, November 20, 2016; and Interview with Herat AGO Appeals Prosecutor’s Office, Herat, November 12, 2016.


Interview with Kabul AGO Appeals Prosecutor’s Office, November 6, 2016.

Interview with Herat MOJ CID official, Herat, November 13, 2016.


321 Jirga Law on Civil Disputes


324 Corruption in Afghanistan, Recent Patterns and Integrity Challenges in the public Sector UNODC / HOO, October 2013, page 37.


326 Interview with AGO Kandahar end user, Kandahar, November 16, 2016.

327 Interview with Kabul AGO Petition writer, Kabul, November 9, 2015.

328 Badakhshan Provincial Trip Civil Society Lunch, July 21, 2016.

329 Chawkay Assessment, Rule of Law Stabilization Program – Informal Component, Checchi and Company, August 2013; Mazar Defense Attorney Roundtable, Mazar, November 19, 2016; and Interview with Kabul MOJ Legal Aid Department official, Kabul, October 29, 2016.

330 Kabul Defense Attorney roundtable, Kabul, November 10, 2016

331 Interview with officials from the Herat AGO Administration department, Herat, November 12, 2016.

332 Interview with Kabul Defense lawyer, Kabul, October 25, 2016 and Interview with officials from
an international justice consulting firm, Kabul, November 10, 2016.

333 Interview with Kandahar AGO Provincial Public Prosecutor, Kandahar, November 16, 2016.


335 Corruption in Afghanistan: Recent Patterns and Trends Summary Findings, UNODC, HOO, December 2012, page 11 and 12.

336 End User interview from Kabul, Herat, Mazar and Kandahar conducted in November 2016, Kabul 1, 2, 3, 4, 8, 9, 11, 12, 14, 20, 21, 22, 24, 25, 30; Herat bribes 9 and 11;

337 End User interview from Kabul, Herat, Mazar and Kandahar conducted in November 2016, Kabul 4 of 30 and 5 of 30 respectively.

338 Defense Attorney survey from Kabul, Herat, Mazar and Kandahar conducted in November 2016, Kabul 1, 2, 4, 6, 8, 9, 11; Herat 1, 2, 3, 4, 5; Kandahar 3, 4; Mazar 1, 2, 3, 5.

339 Defense Attorney survey from Kabul, Herat, Mazar and Kandahar conducted in November 2016, Kabul 1, 2, 7, 8, 10; Herat 1, 2, 3, 4, 5; Kandahar 1, 3, 4; Mazar 2, 4, 5.

340 End User interview from Kabul, Herat, Mazar and Kandahar conducted in November 2016, Kabul 2, 3, 9, 11, 12, 21.

341 Interview with key informant, Kabul, October 23, 2016.

342 Interview with former senior government official, Kabul, November 2, 2016.

343 Interview with AIBA officials, Kabul, October 24, 2016.

344 Interview with Kabul AGO Appeals Prosecutor’s Office, November 6, 2016.

345 Interview with MCTF officials, Kabul, November 3, 2016.

346 The list of prosecutors put on trial for corruption

347 Interview with Kabul AGO Petition writer, Kabul, November 9, 2015.

348 Interview with Kabul AGO Petition writer, Kabul, November 9, 2015; Interview with Herat AGO Petition writer 1, Herat, November 13, 2016; Interview with Herat AGO Petition writer 2, Herat, November 13, 2016; and Interview with Herat AGO Petition writer 3, Herat, November 13, 2016.

349 Interview with Herat AGO Petition writer 3, Herat, November 13, 2016; Interview with Balkh AGO General Crime Unit, Mazar, November 20, 2016; and Interview with Herat AGO Petition writer 1, Herat, November 13, 2016.

350 Interview with Kabul Defense attorney, Kabul, October 25, 2016; Interview with international justice organization official, Kabul, October 30, 2016; Interview with EUPOL official, Kabul, November 3, 2016; Interview with Kabul MOJ Legal Aid Department official, Kabul, October 29, 2016; and Interview with Kandahar AGO Appeals Prosecutor’s Office, Kandahar, November 15, 2016.

351 Interview with an international justice organization official, Kabul, October 30, 2016.


353 End User interview from Kabul, Herat, Mazar and Kandahar conducted in November 2016, Kabul 15; and Mazar 1.

354 Interview with Kandahar AGO Appeals Prosecutor’s Office, Kandahar, November 15, 2016.


356 Interview with Kandahar AGO Criminal Investigations Directorate, Kandahar, November 16, 2016; and Interview in Kabul with the Directorate of Inspection, November 23, 2016 and November 25, 2016.

357 Interview with Balkh AGO Criminal Investigations prosecutor, Mazar, November 20, 2016.

358 Interview with Balkh AGO Anti-Corruption Investigations directorate prosecutor, Mazar, November 20, 2016; Interview with Herat AGO Primary Provincial Prosecution Office prosecutor, Herat, November 12, 2016; Interview with Herat AGO Anti-Corruption Investigation prosecutors, Herat, November 12, 2016; Interview with officials
from an international justice consulting firm, Kabul, November 10, 2016; Interview with Kandahar AGO Criminal Investigations Directorate, Kandahar, November 16, 2016; Interview with AGO Kabul Anti-Corruption Department for Military Prosecutions, Kabul, November 14, 2016; Interview of Bamyan AGO officials, Bamyan, November 6, 2016; Interview with Kandahar AGO Appeals Prosecutor’s Office, Kandahar, November 15, 2016; and Mazar Defense Attorney Roundtable, Mazar, November 19, 2016.

Interview with Kandahar AGO Anti-Corruption Prosecutor, Kandahar, November 16, 2016.  
Interview with Balkh AGO Military Prosecution office, Mazar, November 20, 2016.  
Interview with Kandahar AGO Appeals Prosecutor’s Office, Kandahar, November 15, 2016.  
Interview with Kandahar AGO Appeals Prosecutor’s Office, Kandahar, November 15, 2016.  
Kandahar AGO letter to AG about the intervention of Kandahar governor. 1390/8/5  
Interview with Kandahar AGO Criminal Investigations Directorate, Kandahar, November 16, 2016; and Interview with Badakhshan Police Officials, Badakhshan, July 21, 2016.  
Interview with Kabul AGO Military Anti-Corruption prosecutor, Kabul, November 14, 2016.  
Interview with Kandahar AGO Criminal Investigations Directorate, Kandahar, November 16, 2016.  
Interview with Kabul AGO Directorate of Investigation prosecutor, Kabul, November 23, 2016.  
Interview with officials from the Herat AGO Administration department, Herat, November 12, 2016.  
Interview with Kandahar AGO Provincial Public Prosecutor, Kandahar, November 16, 2016.  
Interview with officials from an international justice consulting firm, Kabul, November 10, 2016.  
Interview with Kabul MOJ Legal Aid Department official, Kabul, October 29, 2016  
Interview with the Kabul AGO, Communications and Public Awareness, November 23, 2016.  
Goals under the AGO’s five-year strategy for 1391 – 1395  
Interview with the Kabul AGO, Communications and Public Awareness, November 23, 2016.  
AGO Communications Plan.  
Interview with Kandahar AGO Anti-Corruption Prosecutor, Kandahar, November 16, 2016.  
Interview with Kabul AGO Appeals Prosecutor’s Office, November 6, 2016. Interview of Bamyan AGO officials, Bamyan, November 6, 2016.  

AGO Second 100-Day Plan.  
Interview with Herat AGO Appeals Prosecutor’s Office, Herat, November 12, 2016.  
Interview with Kandahar AGO Appeals Prosecutor’s Office, Kandahar, November 15, 2016.  
Interview with Balkh AGO Appeals Prosecutor’s Office, Mazar, November 20, 2016.  
Interview with Balkh AGO Appeals Prosecutor’s Office, Mazar, November 20, 2016.  
Interview with Kandahar AGO Anti-Corruption Prosecutor, Kandahar, November 16, 2016.  
Interview with Kandahar AGO Provincial Public Prosecutor, Kandahar, November 16, 2016.  
Interview with Balkh AGO Provincial Prosecution Office prosecutor, Mazar, November 20, 2016; Interview of Bamyan AGO officials, Bamyan, November 6, 2016; Interview with Kandahar AGO Appeals Prosecutor’s Office, Kandahar, November 15, 2016; and Interview with Kandahar AGO Anti-Corruption Prosecutor, Kandahar, November 16, 2016.  
Kandahar office observations November 15, 2016.  
AGO Kandahar observation November 16, 2016.  
Kandahar administrative interview November 15, 2016.  
Interview with Balkh AGO Criminal Investigations prosecutor, Mazar, November 20, 2016.
Interview with Herat AGO EVAW Directorate prosecutor, Herat, November 12, 2016.


391 AGO Kandahar observation November 16, 2016.

392 Interview with Herat AGO Appeals Prosecutor’s Office, Herat, November 12, 2016.

393 Interview with former advisor to the president of Afghanistan, Kabul, November 7, 2016.

394 Interview with Herat AGO EVAW Directorate prosecutor, Herat, November 12, 2016.

395 Interview with officials from the Herat AGO Administration department, Herat, November 12, 2016.

Interview with Balkh AGO Appeals Prosecutor’s Office, Mazar, November 20, 2016.

396 Interview with Kandahar AGO Appeals Prosecutor’s Office, Kandahar, November 15, 2016.

Interview of Bamyan AGO officials, Bamyan, November 6, 2016.


398 Interview with Balkh AGO Appeals Prosecutor’s Office, Mazar, November 20, 2016; Interview with the Administration and Finance Head in Kabul on November 25, 2016.

399 Interview with Herat AGO Appeals Prosecutor’s Office, Herat, November 12, 2016.

400 Kabul Procurement Plan.

401 Interview with Herat AGO Appeals Prosecutor’s Office, Herat, November 12, 2016.

402 Assessment team observations in Mazar, November 20, 2016; and Interview with Balkh AGO Administration officials, November 20, 2016.

403 Assessment Team observations, Kandahar, November 15, 2016; Interview with Kandahar AGO Provincial Public Prosecutor, Kandahar, November 16, 2016; Interview with Kabul AGO Appeals Prosecutor’s Office, November 6, 2016; Interview with Kabul AGO Appeal Prosecution Directorate, Kabul, November 25, 2016; Interview with Herat AGO Appeals Prosecutor’s Office, Herat, November 12, 2016; and Interview with officials from the Herat AGO Administration department, Herat, November 12, 2016; and Interview with Kabul AGO Appeals Prosecutor’s Office, November 6, 2016.

404 Interview with Balkh AGO Anti-Corruption Investigations Directorate prosecutor, November 20, 2016; and Interview with Balkh AGO Provincial Prosecution Office prosecutor, Mazar, November 20, 2016.

405 Interview with Balkh AGO General Crime Unit, Mazar, November 20, 2016.

406 Interview with Kandahar AGO Appeals Prosecutor’s Office, Kandahar, November 15, 2016.

407 Interview with Mazar ILFA official, Mazar, November 21, 2016.

408 Interview with AGO Kabul Anti-Corruption Department for Military Prosecutions, Kabul, November 14, 2016; and Interview with officials from the Herat AGO Administration department, Herat, November 12, 2016.

409 Law on Structure and Authority of the AGO, 2013, article 28.

410 Interview with the Dean of the Faculty of Law, Kabul University, October 23, 2016.

411 Interview with AGO Human Resources Directorate official, Kabul, November 25, 2016.


414 Interview with Asia Foundation official, Kabul, October 30, 2016; and Interview with Mazar AlBA official, Mazar, November 21, 2016.
415 Interview with the Dean of the Faculty of Law, Kabul University, October 23, 2016.
416 Interview with the Dean of the Faculty of Sharia, Kabul University, October 23, 2016.
417 Interview with the Dean of the Faculty of Law, Kabul University, October 23, 2016.
418 Interview with Asia Foundation official, Kabul, October 30, 2016; and Interview with Mazar AIBA official, Mazar, November 21, 2016.
419 Herat University Law and Political Science Faculty Curriculum; and Kabul University Law and Political Science Curriculum.
420 Interview with the Dean of the Faculty of Law, Kabul University, October 23, 2016
421 Interview with official from the MOHE, Kabul, October 31, 2016
422 Interview with the Dean of the Faculty of Law, Kabul University, October 23, 2016.
423 Interview with the Dean of the Faculty of Law, Kabul University, October 23, 2016.
424 Interview with the Dean of the Faculty of Law, Kabul University, October 23, 2016.
425 Interview with the Dean of the Faculty of Sharia, Kabul University, October 23, 2016.
426 Interview with the Dean of the Faculty of Sharia, Kandahar University, November 15, 2016.
427 Kandahar Islamic Jurisprudence and Law Faculty
428 Interview with the Dean of the Faculty of Law, Kabul University, October 23, 2016.
429 Interview with the Professor in the Faculty of Law, Mazar University, November 20, 2016.
430 Interview with Asia Foundation official, Kabul, October 30, 2016.
431 Interview with the Faculty of Law, Kandahar University, November 15, 2016.
432 Interview with Kabul ILFA official, Kabul, October 29, 2016
434 Presidential Decree Establishing the Independent National Legal Training Center.
435 Interview with Acting Head of the NLTC, Kabul, October 23, 2016
436 Interview with Acting Head of the NLTC, Kabul, October 23, 2016
437 Interview with Acting Head of the NLTC, Kabul, October 23, 2016.
439 Interview with Herat AGO Appeals Prosecutor’s Office, Herat, November 12, 2016; Interview with Herat AGO Primary Provincial Prosecution Office prosecutor, Herat, November 12, 2016; and Interview with Balkh AGO Appeals Prosecutor’s Office, Mazar, November 20, 2016.
440 Interview with AIBA officials, Kabul, October 24, 2016.
441 Interview with Acting Head of the NLTC, Kabul, October 23, 2016.
442 Interview with the Kabul AGO Institute of Professional Training official, Kabul, November 23, 2016.
443 AIBA Application form for a License.
444 Interview with AIBA officials, Kabul, October 24, 2016.
445 Interview with Civil Service Commission official, Kabul, November 5, 2016.
446 Law on Structure and Authority of the AGO, 2013, article 29.
447 AGO Second 100-Day Plan; Interview with Kandahar AGO Appeals Prosecutor’s Office, Kandahar, November 15, 2016; and Interview with former advisor to the president of Afghanistan, Kabul, November 7, 2016.
448 Interview with Supreme Court official, Kabul, November 9, 2016.
449 Discussion with employment seeker at AGO, Kabul, November 14, 2016.
450 Interview with EUPOL official, Kabul, November 3, 2016; and Interview with AGO Human Resources Directorate official, Kabul, November 25, 2016.
452 Corruption in Afghanistan, Recent Patterns and Integrity Challenges in the public Sector UNODC / HOO, October 2013, page 42.
453 Corruption in Afghanistan, Recent Patterns and Integrity Challenges in the public Sector UNODC /
Interview with officials from international donor, Kabul, October 25, 2016.


Civil Service Law, article 23.

Civil Service Law, article 15.

Interview with AGO Human Resources Directorate official, Kabul, November 25, 2016.

Interview with officials from the Herat AGO Administration department, Herat, November 12, 2016.

Interview with Kandahar AGO Administration official, Kandahar, November 16, 2016.

Interview with Balkh AGO Administration officials, November 20, 2016.

Interview with officials from the Herat AGO Administration department, Herat, November 12, 2016.

Assessment team observation, Kabul, November 25, 2016.


Interview with Herat AGO Appeals Prosecutor’s Office, Herat, November 12, 2016.


Corruption in Afghanistan, Recent Patterns and Integrity Challenges in the public Sector UNODC / HOO, October 2013, page 46.

Observation form interview of Ferozi lawyer November 22, 2106 in Kabul.

AGO 5-year Strategy (1391-1395); and Interview with Kabul Defense lawyer, Kabul, October 25, 2016.

Presidential Order # 4249

New Chart of Salary Scale for civil and military prosecutors signed by Minister of Finance and AG

Interview with AGO Human Resources Directorate official, Kabul, November 25, 2016.

Interview with Kabul AGO Military Anti-Corruption prosecutor, Kabul, November 14, 2016.

Labor Code, article 94; and Law on Structure and Authority of the AGO, 2013, article 30.

Labor Code, article 95.

AGO Second 100-Day Plan; and Interview with international justice official, Kabul, November 9, 2016.

Interview with officials from the Herat AGO Administration department, Herat, November 12, 2016.

Afghanistan on the Road to Self-Reliance, The National Unity Government Highlights of Achievements, September 2016

Interview with EUPOL official, Kabul, November 3, 2016; and Interview with Kandahar AGO Appeal Prosecution Office, Kandahar, November 15, 2016.

Assessment team observations, Kandahar, November 15, 2016.

Assessment team observations, Herat, November 12, 2016.

Observation of Kabul AGO, November 23, 2016 and November 26, 2016.

Interview with Kandahar AGO Appeals Prosecutor’s Office, Kandahar, November 15, 2016.

Interview with Balkh AGO Appeals Prosecutor’s Office, Mazar, November 20, 2016.

Interview with officials from the Herat AGO Administration department, Herat, November 12, 2016.

Interview with Balkh AGO Administration officials, November 20, 2016.

Interview with Kandahar AGO Administration official, Kandahar, November 16, 2016.
490 Interview with Kandahar AGO Administration official, Kandahar, November 16, 2016; and Interview with officials from the Herat AGO Administration department, Herat, November 12, 2016.
491 Interview with the Supervision of Investigation Directorate, Kabul, November 25, 2016.
492 Interview with Kandahar AGO Provincial Public Prosecutor, Kandahar, November 16, 2016.
493 Interview with Kandahar AGO Appeals Prosecutor’s Office, Kandahar, November 15, 2016.
494 Istalam sent to Zheri district chief by Kandahar appellate prosecution. 1395/7/8
496 Kandahar AGO letter to AG about the intervention of Kandahar governor. 1390/8/5
497 Assessment team observations, Kandahar, November 15, 2016.
498 Assessment team observations, Mazar, November 20, 2016.
499 MVCA Assessment team observations, November 12, 2016.
500 Interview with Mazar ILFA official, Mazar, November 21, 2016; Interview with Balkh AGO General Crime Unit, Mazar, November 20, 2016; Mazar Defense Attorney Roundtable, Mazar, November 19, 2016; and Interview with Mazar AIBA official, Mazar, November 21, 2016.
502 Interview with Balkh AGO Administration officials, November 20, 2016; Interview with Herat AGO EVAW Directorate prosecutor, Herat, November 12, 2016; Interview with Balkh AGO General Crime Unit, Mazar, November 20, 2016; Interview with Balkh AGO Provincial Prosecution Office prosecutor, Mazar, November 20, 2016; and Interview with Kandahar AGO Appeals Prosecutor’s Office, Kandahar, November 15, 2016.
503 Law on Structure and Authority of the AGO, 2013, article 31.
504 Law on Structure and Authority of the AGO, 2013, article 32.
505 List of AGO’s employees who have been fired due to absenteeism or corruption during the year 2016
506 Interview with Herat AIBA official, November 12, 2016; Interview with Kandahar Appeals Court judge, Kandahar, November 16, 2016; Interview with Kabul Defense lawyer, Kabul, October 25, 2016; and Kabul Defense Attorney roundtable, Kabul, November 10, 2016.
507 Interview with Kabul Defense lawyer, Kabul, October 25, 2016.
508 Afghanistan Constitution, article 154; Law on Overseeing the Implementation of the Anti-Administrative Corruption Strategy, article 12; and Law on Structure and Authority of the AGO, 2013, article 37.
509 Letter from Head of HOO to MEC regarding AGO asset registration, received November 2016.
510 Law on Structure and Authority of the AGO, 2013, article 33.
511 Interview in Kabul with the Directorate of Inspection, November 23, 2016 and November 25, 2016.
512 Interview with Kabul AGO Control Directorate, Kabul, November 25, 2016.
513 Interview with the Supervision of Investigation Directorate, Kabul, November 25, 2016.
514 Interview with Kandahar AGO Administration official, Kandahar, November 16, 2016.
515 Interview with Balkh AGO Monitoring and Evaluation directorate prosecutor, Mazar, November 20, 2016.
516 Interview with officials from the Herat AGO Administration department, Herat, November 12, 2016.
517 Assessment team observation, Herat, November 12, 2016; and Telephone conversation with Herat Monitoring and Evaluation prosecutor, Herat, November 12, 2016.
Interview with Balkh AGO Monitoring and Evaluation directorate prosecutor, Mazar, November 20, 2016.

Interview with Kandahar AGO Appeals Prosecutor’s Office, Kandahar, November 15, 2016.

Interview with Kandahar AGO Administration official, Kandahar, November 16, 2016; and Interview with Balkh AGO Appeals Prosecutor’s Office, Mazar, November 20, 2016.

Interview with Kabul AGO Petition writer, Kabul, November 9, 2015.

Law on Prions and Detention Centers, article 45.

Interview with Kabul MOI Detention and Prisons, Kabul, November 5, 2016.

Interview with the Kabul AGO, Communications and Public Awareness, November 23, 2016.

Interview with Kabul AGO Petition writer, Kabul, November 9, 2016.


Interview with Kabul petition writer, Kabul, November 9, 2016.

AGO Second 100-Day Plan.

Interview with the Kabul AGO, Communications and Public Awareness, November 23, 2016.

1395 Afghan National Budget.

Ordinary Budgeting Plan for Kabul and Provinces.

Balkh Budget Allocation for Prosecution Office.


Interview with Kabul AGO Administration and Finance, Kabul, November 25, 2016.

AGO 5-year Strategy (1391-1395).

Interview with officials from the Herat AGO Administration department, Herat, November 12, 2016; Interview with Kandahar AGO Administration official, Kandahar, November 16, 2016.

Interview with Kabul AGO Policy and Planning, Kabul November 23, 2016.

Interview with Kabul AGO Policy and Planning, Kabul November 23, 2016.

Interview with Kabul AGO Administration and Finance, Kabul, November 25, 2016.

Interview with Kabul AGO Administration and Finance, Kabul, November 25, 2016.

Interview with officials from the Herat AGO Administration department, Herat, November 12, 2016; and Interview with Balkh AGO Administration officials, November 20, 2016.

Interview with Kandahar AGO Administration official, Kandahar, November 16, 2016.

Interview with Kabul AGO Administration and Finance, Kabul, November 25, 2016.

Interview with officials from the Herat AGO Administration department, Herat, November 12, 2016; and Interview with National Procurement Authority officials, Kabul, November 1, 2016.


National Judicial Reform Program, June 2016


CBR Website, accessed November 6, 2016; and interview with CBR official, Kabul, November 2, 2016.
The Independent Joint Anti-Corruption Monitoring and Evaluation Committee (MEC) independently monitors and evaluates national and international efforts to fight corruption in Afghanistan. It reports to the public, Parliament, President, and international community.
Special Report

Vulnerabilities to Corruption in the Afghan Attorney General’s Office

Published Date: July 19, 2017
Publication Code: SR-19-017