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AFGHANISTAN

**Assistance for the Development
of Afghan Legal Access and
Transparency (ADALAT)
Annual Work Plan**

April 2016 – March 2017

List of Abbreviations

ACAS	Afghanistan Court Administration System
ADALAT	Assistance for the Development of Afghan Legal Access and Transparency
AGO	Attorney General's Office
AIBA	Afghan Independent Bar Association
AID	Afghanistan Independent Defenders
AJO	Afghan Justice Organization
ALEP	Afghanistan Legal Education Program
AUAF	American University of Afghanistan
AWJA	Afghan Women Judges Association
CBR	Capacity Building for Results
CJE	Continuing judicial education
CLE	Continuing legal education
CMS	Case Management System
CSO	Civil Society Organization
EVAW	Elimination of Violence against Women
GAP	Gender Action Plan
GIZ	German Development Cooperation
HICD	Human Institutional Capacity Development
IDLO	International Development Law Organization
JED	Judicial Education Department
JSSP	Justice Sector Support Project
JUST	Justice User Satisfaction Tool
LAGF	Legal Aid Grant Facility
LALE	Legal Aid through Legal Education
M&E	Monitoring and Evaluation
MoHE	Ministry for Higher Education
MOJ	Ministry of Justice
MoWA	Ministry of Women's Affairs

NAPWA	National Action Plan for the Women of Afghanistan
NJP	National Justice Program
NJSS	National Justice Sector Strategy
NSP	National Solidarity Program
PRR	Priority Restructuring and Reform
PUA	Private Universities Association
RLS-F	Rule of Law Stabilization- Formal Component Project
RLS-I	Rule of Law Stabilization – Informal Component Project
RSI	Rahman Safi International (RSI) Consulting
SC	Supreme Court
SOP	Standard Operating Procedure
TAF	The Asia Foundation
TDR	Traditional dispute resolution
TOR	Terms of Reference
TOT	Training of trainers
TLO	The Liaison Organization
UNDP	United Nations Development Program
USIP	United States Institute of Peace
WAW	Women for Afghan Women
WCLRF	Women and Children Legal Research Foundation

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Introduction

The work plan that follows includes a preliminary baseline and needs assessment, activity description, and a gender assessment as required by the task order. ADALAT's approach is built on the concept of sustainable solutions. Well intentioned assistance has stressed developing a justice system that is in line with international best practices, without enough thought given to how such an approach will be transitioned to the Afghans once the aid flows ebb. The data-driven approach outlined below starts with a critical reevaluation of already-tested programs to determine what works, what didn't work, and, critically, what Afghanistan can afford to sustain. Activities in Year One are focused on better understanding of the needs and capabilities of our counterparts, who will be trained to use data for the most effective use of scarce government resources. Over the six remaining months in ADALAT's first year the plan will be revised as we collect more information and data from our counterparts in both the government and the private sector. The ADALAT Gender Specialist will ensure gender balance in hiring, including in senior positions, and all project staff will receive gender training and support a gender-friendly work environment.

Executive Summary

Sub-purpose 1: Increased formal justice sector effectiveness

Judicial education, court administration, case management and bar association usefulness have been critically inconsistent in Afghanistan. Some progress is being made, including the judicial Stage, a post-graduate, mandatory legal training program intended to supplement Sharia and law faculty theoretical teachings, re-launched after a two-year hiatus in 2015. Any legal education support for the Supreme Court (SC) requires the cooperation of the Judicial Education Department (JED) and coordination with existing efforts. Organization systems among courts remain underutilized, with information in the Afghanistan Court Administration System (ACAS), INL's Case Management System (CMS) and a judicial human resources database rarely referenced in making resource decisions. Dependence on foreign aid plagues the Afghanistan Independent Bar Association (AIBA), whose role for the past eight years has grown little beyond the granting of licenses to practice with little scrutiny.

To support judicial education in Year One, ADALAT will observe and evaluate the Stage, work closely with the SC and JED on assessing training needs, with a focus on civil law matters, and support regional judicial conferences. ADALAT will work closely with the Afghan Women Judges Association (AWJA) to formulate recommendations for increasing the number of women entering the profession. ADALAT will review the judicial conduct regulation in Afghanistan and other countries in the region and report it to the SC, with suggestions for amending the 2008 Regulation on Considering Discipline for Judges' Offenses. Human Institutional Capacity Development (HICD) assessments will be carried out for the Human Resources (HR) and Finance and Administration Departments of the SC and used to determine what support ADALAT will offer to courts in future years, including a strategic plan for non-judicial staff. ADALAT will also carry out a detailed court level assessment of the caseload data captured by the ACAS system and deliver refresher trainings on ACAS along with supplies. An HICD assessment of the Afghan Independent Bar Association (AIBA) will be conducted, and while reevaluating AIBA's capabilities and

supporting capacity-building of the management body and Women's Committee, ADALAT will take the lead on donor coordination.

Sub-purpose 2: Strengthened formal-traditional justice sector linkages

Traditional dispute resolution (TDR) remains the primary conflict management mechanism for most Afghans. The *Huquq* Department of the Ministry of Justice (MOJ) is emerging as a bridge body between the formal and informal justice systems, yet its uneven performance in fulfilling its current mandate has left most Afghans disinclined to apply to formal justice entities. While a draft Jirga/Conciliation Law defines the *Huquq's* role relative to other institutions, it remains to be seen how the law, once enacted, will facilitate access to justice, particularly for women, whose rights are marginalized by tradition.

In Year One an ADALAT HICD assessment of the *Huquq* will provide critical detail on the Department's functioning, training and staffing needs. ADALAT will encourage recruitment of female *Huquq* staff and design a comprehensive training program for newly hired and experienced officers. An *Huquq* Stage will include modules on women's rights, with particular focus on civil disputes such as divorce and property rights. In addition, ADALAT will review *Huquq* case management practices and GIZ's ACAS-derived pilot system to recommend adjustments to ensure harmonization between court and *Huquq* case management and fulfill the TDR recording requirements in the draft Jirga/Conciliation Law. To promote TDR compliance with Afghan law, ADALAT grantee The Liaison Organization (TLO) will provide training to the informal sector, emphasizing respect for women's rights, and also support other Civil Society Organizations (CSOs) grantees to apply the training model.

Sub-purpose 3: Increased citizen demand for quality legal services

Years of donor support for Afghan civil society initiatives have noticeably increased citizen appreciation of legal rights and protections, and there has been significant progress in the fight for equal treatment of men and women that plays out in justice sector forums. Yet lasting knowledge streams and opportunities to engage in fair and transparent justice practice are few and far between for much of the population; it is particularly limited for communities in the country's remote regions. In more urban areas, newly-established private universities educate the majority of law degree candidates, and there is a widely recognized need for higher education reform to control for quality across all law faculties.

Sub-purpose 3 activities will take place largely through ADALAT's small grants program. ADALAT staff will provide capacity building training to grantees awarded in four general areas: legal outreach and awareness, legal advocacy, justice sector monitoring, and legal education at private universities. Open solicitations will be made to CSOs for novel approaches to educating less literate populations about their rights and for advocacy programs to promote better policy and practice around social justice and gender equality. Justice-oriented CSOs will be sought to monitor court and *Huquq* proceedings in collaboration with the target institutions, and data from cases related to divorce, custody or property rights (where women are involved) will contribute to research on the treatment of women. Select private university law faculties will receive grants to fund their adoption of modern, interactive teaching methods and a revised law curriculum better promoting practical skills. Finally, ADALAT will work with The Asia Foundation (TAF) to determine the

feasibility of introducing its legal education program to private universities for instructor training in practical skills and the establishment of family law clinics. ADALAT will also assist coordinated efforts to press the Ministry for Higher Education (MoHE) for reform.

Cross Cutting Project-wide

Regional Offices

ADALAT specialists will deliver substantive programs such as the judicial and *Huquq* Stages, ACAS and *Huquq* case management system trainings, and capacity building for grantees. For the sake of efficiency, they will travel throughout the country to assess needs and then design programs to meet those needs, rather than serving as generalists in permanent regional offices. Regional offices would at most arrange local trainings or visits, which our Kabul-based teams are very experienced after 10 years working for earlier USAID-funded rule of law programs. Our recent experience with both RLS-I and Checchi's monitoring and evaluation project (SUPPORT-II) has been that regional offices are largely idle, and they were closed well before either project ended. We will instead use the human resources budgeted for the regional offices to increase the size of our specialist teams so that we can roll out our programs quickly and efficiently. ADALAT will take advantage of the regional presence of counterparts and sub-grantees (i.e., TLO) when implementing regional work, and our staff will travel frequently to interact with counterparts in all regions. The results of these interaction – assessments carried out with judges, courts and the AIBA – will provide information on regional needs that ADALAT can address.

Monitoring and Evaluation

The ADALAT Monitoring and Evaluation (M&E) team will focus on putting M&E systems in place, project reporting, partner organizations like TLO and Afghan Justice Organization (AJO), and for CSO grantees. Every ADALAT partner will have their own M&E plan which includes a simple indicator tracking table (AMEP indicators, and other contractual indicators), the frequency, targets and data source. The partner M&E plans, approved by October 20, 2016, will include a simplified PIRS and draft data collection tools (where applicable), and CSO grantees will have approved M&E plans within eight weeks of award. ADALAT will work with grantees and sub-contractors to develop or adapt standard tools for monitoring and tracking key indicators. The ADALAT M&E Specialist will work with AJO to develop an AIBA member survey in the third quarter, which will be implemented in the fourth quarter and used to gauge member satisfaction, training needs and perceptions of court performance. The ADALAT M&E team will also oversee implementation of a Justice User Satisfaction Tool (JUST) survey in the third quarter, and will monitor the analysis and reporting of the survey in the fourth quarter. In the third quarter the team will also assess the quality of data received from the SC and MOJ and prepare for regular monitoring visits to observe project implementation to begin in the fourth quarter.

Justice User Satisfaction Tool

During the third quarter of Year One, ADALAT will work closely with Rahman Safi International Consulting (RSI) to develop and pilot the JUST survey to ensure that the project team understands the state of the formal justice sector and has a strong baseline for

tracking progress. The survey will examine perceptions among users of the courts and *Huquq* offices.

RSI will begin implementation of the JUST survey during the second quarter of the Year One, and it will be repeated in the third and fifth years of the project. The JUST survey will be conducted in 100 locations across Afghanistan, stratified by region so that regions are proportionally represented. All JUST data will be disaggregated by sex and region. In the first quarter of the project the M&E team developed draft survey tools. In the second quarter RSI will thoroughly pilot test the tools, to select the wording in Dari and Pashto that best captures the concepts most relevant to project results. Based on the pilot test, the tools will be adjusted and RSI will train enumerators and begin gathering quantitative survey data and qualitative data based on focus group discussions. The results are expected to be available during the fourth quarter of the project.

Sub-Purpose 1 Increased Formal Justice Sector Effectiveness

Output 1.1: Increased Supreme Court capacity to provide professional training to judges and judicial personnel

Baseline and Needs Assessment

The Supreme Court (SC) is led by Chief Justice Halim and the other members of the Supreme Judicial Council. There are three vacancies on the Council, as the terms of Justices Baja, Rashid, and Nasimi ended at the end of August. General Nesar is the acting Director General of Administration and oversees several departments, including the Judicial Education Department (JED). The JED is in charge of the continuing judicial education (CJE) of sitting judges and the pre-service training of judicial candidates selected on the basis of a competitive entrance examination to participate in the Judicial Stage, presently a five-semester, two-year program.

From the inception of its proposal, Checchi has assumed that Chief Justice Halim and the members of the Supreme Judicial Council will support activities designed to increase the SC's capacity to provide professional training to judges and judicial candidates, and to increase the level of participation by women in the judicial sector. That assumption has proven to be correct. The Chief Justice has given his verbal approval to proposed ADALAT judicial training activities, including a Kabul regional judicial conference and a comprehensive evaluation of the Stage. Justices Ahdi, Matin, Adalatkah, and Sangori have also indicated their strong support for these activities. Justice Kamawi will be briefed regarding ADALAT's proposed activities as soon as he is available.

As demonstrated by the difficulties encountered in the implementation of the RLS-F project¹, little can be accomplished by way of sustainable improvements to the SC's judicial training programs without the establishment of a positive collaborative relationship with the SC leadership and the JED. Other SC Departments, including the Research and Studies,

¹ "RLS-F2 Performance Evaluation Final Report," ATR Consulting (January 2015).

Planning and Policy, Publications, Human Resources, and Administration and Finance Departments, play a role in judicial training, and ADALAT has established positive working relationships with the Directors of those Departments. In several meetings with the ADALAT team, Dr. Attahi, the Director of the JED, has attempted to link his cooperation, and that of the JED, in the delivery of proposed activities, including an assessment of the training needs of sitting judges and an evaluation of the Stage, to direct financial assistance in the form of stipends for Stage instructors and participants. Nevertheless, the cooperation of the JED is essential. To secure that cooperation, ADALAT prepared a paper describing the Stage evaluation process and the goals of the evaluation, including increased participation by female Law and Sharia Faculty graduates in the Stage admission examination and a thorough review of the Stage curriculum. This paper was delivered to the SC and in response, Gen. Nesar transmitted the paper, along with a cover letter, to Dr. Attahi directing the JED to cooperate with ADALAT in the implementation of the Stage evaluation.

Professional training for the 1,800 permanent full-time non-judicial staff is theoretically the responsibility of the SC HR Department although the only formal non-judicial staff training programs for court managers (Administrative Stage) was conducted by the JED in 2013-2014. Non-judicial personnel provide (1) case management and judicial support; and (2) administrative systems support to the judicial system. All court system clerks were trained in the implementation of ACAS in 2008 and 2011; and teams from twenty jurisdictions were subsequently trained on how to implement the re-designed ACAS System and revised SC statistical system in 2012. That said, no department currently has the internal capacity to develop improved systems and no department is responsible for overall supervision of case management processes within the courts. Other than civil service trainings, there are no formal training programs available within or outside the courts to train non-judicial clerical staff prior to or following employment with the court system to conduct these functions. Further, there are no public or private continuing education programs to strengthen non-judicial staff skills, other than court clerk information-sharing conferences held in conjunction with national judicial conferences in 2008 and 2011; and ad hoc training of Supreme Court administrative staff at the request of department heads over the years.

No training needs assessment has been conducted of court system personnel, nor has there been an assessment of the SC's professional capacity to conduct training. The Court System has supported efforts to increase capacity to provide professional training to non-judicial staff, including determination of non-judicial staff qualifications during the Priority Restructuring and Reform (PRR) assessment process in 2009 and adoption of an as yet to be implemented regulation in 2008 requiring annual training of clerks in ministerial functions. The World Bank-funded Capacity Building for Results (CBR) Program is available to provide professional training to SC staff. However, while the SC has applied to participate in that program, the Supreme Court will not be eligible until after completion of the ongoing pay and grade analysis.

Approximately 80 percent of current sitting judges in Afghanistan are Stage graduates, and have likely received one or several CJE trainings offered by multiple implementers. Delivering CJE through mandatory week-long subject-specific sessions held in cities around the country is expensive, may expose judges to unforeseen security risks, pulls judges away from their judicial duties in large numbers, and is not sustainable without donor financial assistance. An innovative approach to CJE for sitting judges is called for. Several judicial systems have adopted the judicial conference model as the primary means of providing CJE

for their sitting judges. Such conferences are cost effective and can be held regionally and be limited to one to three days. They provide great flexibility in the types of training that can be offered. Typically, they include a detailed message from the Chief Justice outlining the state of the judiciary and the priorities for the upcoming year. Recent developments and trends in the statutory and decisional law can be presented to judges who may have no other way of learning about them, accompanied by copies of recently enacted statutes and significant court decisions. Targeted substantive law courses, for example, women's rights and judicial ethics, can be offered, accompanied by useful course materials. Courses of particular interest to sub-sets of judges, for example, development of leadership skills for women judges and court management skills for presiding judges, can also be included. Conference proceedings can be videotaped for easy distribution to judges who cannot attend due to security concerns.

The SC is presently delivering the 30th Stage. It is being held in a rented building on the grounds of the primary commercial court in Kabul. There are 304 participants, 243 males (80%) and 61 females (20%). The method or formula used by the SC to determine the number of students that will be accepted into each Stage is unclear and does not seem to be connected to an analysis of needs.² The present Stage consists of four five-month semesters (including one month of examinations each semester) and one practicum. June 8, 2016, was the final day of the second semester examination period. The third semester started on June 11th which will be followed by the practicum beginning in November, and, in turn, the final semester, which will be devoted to moot court and trial practice activities. The SC has discontinued the use of the entrance examination prepared by AROLP in 2007 and ADALAT has not had the opportunity to review the entrance examination currently in use. As near as ADALAT can determine, there is presently no donor financial support for Stage instructor or student per diem payments. From the SC's budget, students receive the equivalent of approximately \$100 per month. Currently, students are not given the opportunity to evaluate the Stage curriculum, instruction, or practicum.

Checchi believes that the method by which the Stage is administered discourages female Law and Sharia Faculty graduates from sitting for the Stage entrance examination. For example, limiting the venue for the administration of the examination to Kabul makes it difficult for women living in the provinces to come to Kabul and sit for the examination. ADALAT has learned anecdotally that a significant percentage of Sharia Faculty students are women, but that Sharia Faculty curricula differ for male and female students, with male students being offered more courses in the law. Should this anecdotal evidence prove to be true, the Stage entrance examination, with an expected emphasis on legal subjects, may unfairly disadvantage female students sitting for the examination. Men and women attend segregated classes at the Stage. ADALAT does not know the reason for this practice. The Stage curriculum has evolved over the years and is under the stewardship of the JED. The extent to which it has been based upon an evaluation and determination of the additional substantive law education and the practical skills needed by judicial candidates to succeed as sitting judges is unclear. It is dominated by substantive law courses. Essentially, the SC is spending two years teaching judicial candidates the law that they were exposed to, or

² In a 2011 review of cases carried out by RLS-F, the 1647 sitting judges had an average case load of 36 cases, which is very low in comparison to other countries. In the U.S. the average case load for a federal judge in 2016 was 549 cases.

should have been exposed to at the Law and Sharia Faculties they attended. This approach represents a poor use of time and precious financial resources. In essence, the teaching is to the lowest common denominator, resulting in potential boredom and discouragement for a large majority of Stage participants. Furthermore, the funding required to support a two-year Stage may not be sustainable through appropriations to the SC, potentially resulting in recurring requests for donor support.

ADALAT proposes to address these perceived problems by conducting, in conjunction with the JED, a comprehensive evaluation of the 30th Stage, which is currently in progress. The purpose of the evaluation is to provide information to the SC and the JED to enable the SC to achieve its goal of providing a training program for its judicial candidates of the highest caliber. ADALAT's report of the results of the evaluation will provide the information necessary for the SC to continue to move forward with that goal. The results of the evaluation will also guide ADALAT in proposing to USAID, in collaboration with the SC, specific activities to be undertaken by ADALAT in subsequent program years. Such activities would possibly include a JED-sponsored entrance examination preparation course for female Law and Sharia Faculty graduates to be offered in provincial capitals, modifications in the content of the examination, JED regional administration of the examination, and changes in the Stage curriculum to reconcile it with Law and Sharia Faculty curricula and to orient it more to the practical aspects of the work of a judge, such as legal research, analysis, and writing.

Proposed Activities

Deliverable 1.1.1

Activity 1.1.1.1 Support to JED Training Sub-Directorate

The JED has four sub-directorates: Training, Legal Research, Translations, and Forensics/Laboratory. In the first year of the project, ADALAT proposes to support the Training Sub-Directorate through the specific activities set forth at 1.1.1.2 (training needs assessment for sitting judges hearing civil related cases), 1.1.1.3 (Kabul regional judicial conference), 1.1.1.6 (instructor observation and evaluation instrument), and 1.1.1.7 (Stage evaluation). The support will be directed to the mentoring of JED staff to enable staff to undertake judicial training activities in the future without ADALAT assistance, and to the inclusion in the SC's budget of the funds necessary to carry out those activities in future. In subsequent program years, ADALAT will consider additional activities to support the JED sub-directorates.

Expected Results:

ADALAT is establishing a collaborative relationship with the SC and the JED, and will begin to institutionalize the capacity of the JED to administer the SC's judicial education programs without donor support.

Timeline – 3rd and 4th Quarters

Performance Indicators: 1.3 Percentage of legal professionals who report improved services provided by court

Activity 1.1.1.2 SC training needs assessment for sitting judges completed (Task Order Section F.3. Deliverable 1.1.1)

To be successful and informative, an assessment of the training needs of sitting judges and judicial candidates must be comprehensive. The training needs of sitting judges depends on the nature of the cases they are assigned to decide; the success, or lack thereof, of the training they received at the Stage; the CJE training they have already received; and their own view of their training needs. The training needs of judicial candidates accepted into the Stage depends in part on the legal education they received at public and private Law and Sharia Faculties, and in part on the additional practical training needed to perform the work of a judge. Assessment of the training needs of judicial candidates is addressed under activity 1.1.1.7

The ADALAT COP and team members met early on with the COP of IDLO, and learned that IDLO was working with the JED to perform a survey of sitting judges to determine their CJE training needs.

There is no reason for ADALAT to replicate the IDLO survey. Rather, ADALAT can bring to the table additional inputs to ensure completion of a thorough training needs assessment. ADALAT will collaborate with the SC and IDLO and other justice sector programs to document the substantive legal and social content, procedural law and skills, and administrative and managerial training needed by sitting civil judges to provide them with the knowledge and skills needed to do their jobs. The TNA methodology will need to include surveys, interviews and research to determine the need for both basic and advanced (legal and legislative updates) training in: **1. Substantive Law:** the substantive content of sitting judges caseloads (a) **required** to adequately hear and decide property, contracts, family law, juvenile justice, commercial law, probate, landlord/tenant, etc. cases; and (b) **elective** training in other substantive areas, including psychology, human/minority/gender rights, judicial ethics, equity/fairness; **2. Procedural Law**, including evidence, and civil procedure; **3. Procedural skills**, including appraisal of evidence, writing of judgments, legal research, trial conduct, statutory interpretation and analysis and bench/bar relations; **4. Administrative and Managerial Skills**, including case management and performance evaluation.

Through statistics gathered independently by the Inspections Department, ADALAT can identify the types of cases that judges are being assigned. In collaboration with the JED, ADALAT will analyze these statistics and the IDLO survey results. The analysis will look at the types of cases filed and compare them with the training programs in place and under development so as to ensure that training programs are aligned with the types of cases judges are hearing. ADALAT has also solicited the opinion of Dr. Attahi and his staff, as well as that of Supreme Court justices, provincial chief judges, and other key informants, as to the substantive, procedural and administrative knowledge and skills training needs of sitting judges. To date, ADALAT has conducted 29 key informant interviews. ADALAT will analyze the results to ascertain common points of agreement on the types of trainings needed. ADALAT has also conducted focus group discussions with members of the AWJA in order to assess the training needs of women judges separately, with AIBA members, and with four prosecutors. Based upon the caseload statistics, the IDLO survey results, and the

information gathered from the key informant interviews and focus groups, ADALAT will prepare a comprehensive training needs assessment report to the SC, identifying the training subjects that will be most beneficial to sitting judges going forward. ADALAT will share this report with IDLO and other implementers, and will concentrate future proposed trainings in areas other than criminal law and criminal procedure.

ADALAT will involve the AWJA in a review of the information obtained through an evaluation of the 30th Stage with a view toward formulating recommendations that will increase the number of women entering future Stages. At ADALAT's request, the AWJA conducted a focus group to discuss the CJE training needs of its members and sitting judges in general. ADALAT will continue to involve the AWJA as a key informant in the preparation of ADALAT's proposed assessment of the training needs of sitting judges. The assessment may suggest a need for particular training programs to address the special concerns of women judges as well as the need of all judges to be educated regarding particular problems faced by women entering their courts as parties or advocates.

ADALAT does not anticipate the need for STTA involvement in the completion of the training needs assessment.

Expected Results:

The training needs assessment will provide a better understanding of training needed by sitting judges. The assessment report will be used to revise the Stage curriculum, as well as identify training needs to be addressed in focused CJE civil law trainings to be delivered at regional judicial conferences.

Timeline – 2nd through 4th Quarter

Performance Indicators: 1.1.2 Number of legal professionals and non-state justice actors trained with USG assistance

Activity 1.1.1.3 SC Kabul regional judicial conference planned and delivered

The first regional judicial conference will be held in Kabul, and has been approved by the Chief Justice. Other regional conferences will likely be proposed in subsequent program years. ADALAT will maximize the number of judges attending the conference, security concerns, travel restrictions, and space limitations considered. Additional obstacles that only affect female judges, such as finding appropriate accommodations in Kabul or needing a *mahram*, will be addressed during the conference planning stage. Gen. Nesar has formed a conference planning committee consisting of representatives from the JED, SC Secretariat, Finance and Administration Department, and Research and Studies Department. Gen. Nesar has designated the JED to take the lead in developing the conference agenda and has invited a representative from the AWJA to attend the weekly planning committee meetings. ADALAT will support the JED and the conference planning committee in the development of the conference agenda, selection of the CJE topics to be presented during the conference, and identification of CJE program instructors. ADALAT will support the instructors in the preparation and delivery of program materials. A two-day conference agenda would include a message from the Chief Justice on the state of the judiciary, and several CJE programs, including a program sponsored by AWJA, a panel discussion on Supreme Court advisory opinions, a presentation on recent developments in the statutory

and decisional law, and a roundtable or discussion session focusing on AIBA issues and ideas related to the judiciary. ADALAT will mentor JED staff and planning committee members in the development and presentation of judicial conferences, and assist in the preparation and use of detailed conference planning and budgeting protocols, thereby institutionalizing sustainable capacity. ADALAT will consider proposing the retention of an Afghan STTA with expertise in conference planning, budgeting, and delivery. The proceedings of the conference will be professionally recorded and edited for use by the SC, as it determines to be appropriate.

Expected Results:

The development and presentation of a regional judicial conference will result in the training of five SC staff to deliver other regional judicial conferences, security concerns permitting, and will result in CJE training opportunities for an estimated 75 judges attending the conference.

Timeline – 3rd and 4th Quarters

Performance Indicators: 1.1 Percentage of court users who are satisfied with the services provided and 1.1.2 Number of legal professionals and non-state justice actors trained with USG assistance

Activity 1.1.1.4 Supreme Court advisory opinions published

For past judicial conferences, the SC Research and Studies Department solicits legal questions from judges around the country. The Department, in collaboration with the SC leadership, researches the law and prepares answers to selected questions submitted in the form of advisory opinions. The purpose of the exercise is to resolve ambiguities in the law and encourage uniform application of the law across the country. The results of this exercise represents an appropriate CJE topic for presentation at the judicial conference to be delivered pursuant to Activity 1.1.1.3. In order that judges around the country can benefit from this exercise, the advisory opinions will be published in book form, and the books distributed to all judges in Afghanistan. ADALAT will assist and mentor the Research and Studies Department in the organization, preparation, and publication of these advisory opinions and the distribution of the books to judges throughout the country. That assistance will include an analysis of the costs of publication and distribution in order that the Department can include those costs in subsequent SC budgets. ADALAT will assist a panel of judges selected by the SC in the preparation and presentation of the advisory opinions at the judicial conference. ADALAT will advocate for inclusion of female judges on the panel.

Expected Results:

The advisory opinions exercise will result in the publication and distribution of useful legal text books to all judges in the country. ADALAT will coordinate with IDLO and other justice sector programs to see if the books can also be made available to prosecutors and members of the AIBA.

Timeline – 3rd and 4th Quarters

Performance Indicators: 1.1.2 Number of legal professionals and non-state justice actors trained with USG assistance

Activity 1.1.1.5 Viewings of judicial conference proceedings organized in provincial capitals

Due to security concerns and travel limitations, many judges in Afghanistan will not have the opportunity to attend the judicial conference in Kabul (Activity 1.1.1.3). The proceedings of the conference will be professionally recorded and edited. To ensure that judges who were not able to attend the conference have an opportunity to view the conference proceedings and benefit from the Chief Justice's presentation and the CJE training programs presented, ADALAT will organize regional presentations of the conference proceedings in selected provincial capitals, as determined by the SC, such as Jalalabad, Mazar-e-Sharif, Fayzabad, Kandahar, or Kunduz, security permitting. Judges from insecure provinces, such as Paktika and Nuristan, will be invited to these regional presentations. One half day will be added to the conference to afford Chief Judges an opportunity to address issues that may be of particular concern or interest to the judges attending. ADALAT staff will be present to distribute conference materials, assist in the presentations, and record the names of the judges attending.

Expected Results:

Regional presentations of the proceedings of the Kabul judicial conference will extend the CJE training opportunities presented during the conference to an additional 75 judges around the country.

Timeline – 4th Quarter

Performance Indicators: 1.1.2 Number of legal professionals and non-state justice actors trained with USG assistance

Activity 1.1.1.6 Instructor observation and evaluation instrument prepared

Traditionally in Afghanistan, instructors in the Law and Sharia Faculties have used the lecture format as the preferred method of teaching. Having been taught in this fashion, judges who become judicial training instructors often fall back on the lecture format in their training of other judges and judicial candidates. Over at least the last 10 years, USAID and other donors have devoted, through various implementers, considerable resources to the training of trainers (TOT) in the use of modern teaching methodologies instead of the traditional lecture method. It is time to prepare an instructor observation and evaluation instrument that can be used across institutions by trained observers to gauge the effectiveness of the instruction provided. ADALAT will prepare that instrument and train ADALAT and JED staff to observe and evaluate the instructors at the 30th Stage and judges presenting CJE courses. The evaluation instrument will allow for the assessment of the instructor's preparation for the class; the instructor's ability to cover the material to be presented in the class; the instructor's use, or lack thereof, of written course materials; the quality of the course materials; the teaching methodology employed by the instructor; the instructor's rapport with the class; the ability of the instructor to generate student interest and class discussion and participation; and the instructor's fairness in calling upon students or

answering students' questions. Working in teams of two persons, an ADALAT representative and a JED staff person will observe the Stage instructors. Because male and female Stage participants are taught separately, the same team will observe the instructor in both classrooms to ascertain if the instructor treats the female and male participants differently. The results will guide the JED in the selection of instructors for future Stages and CJE course presentations. Going forward, the observations and evaluations can also inform the presentation of advanced TOT trainings for selected instructors, and might be combined with those being considered for law teachers in Sub-purpose 3. ADALAT does not anticipate the need for STTA involvement in the preparation of the instrument or in the training of ADALAT and JED staff to observe and evaluate the instructors.

Expected Results:

This activity will result in ADALAT's preparation of an observation and evaluation instrument, ADALAT's use of the instrument in the evaluation of the instructors at the 30th Stage and the presenters of CJE courses, and ADALAT's training of two JED staff in the use of the instrument to evaluate Stage and CJE instructors. The instrument will be available to other ADALAT components and other implementers in the field of judicial education. The instrument and the assessment results will also be used to inform the JED regarding TOT trainings to be implemented by the JED, with technical support from ADALAT, in future program years.

Timeline – 2nd through 4th Quarters

Performance Indicators: 1.3 Percentage of legal professionals who report improved services provided by court, 1.1.2 Number of legal professionals and non-state justice actors trained with USG assistance, and 1.1.3 Number of recommendations from Stage Assessment implemented

Activity 1.1.1.7 Stage observation and evaluation

ADALAT, in association with the JED, will undertake a comprehensive evaluation of the 30th Stage. The evaluation will consist of the following elements:

- (1) Review of the entrance examination given to Stage applicants
- (2) Identification of the number of persons sitting for the examination, disaggregated by sex
- (3) Identification of the initial passing score required for admission to the Stage and determination of the basis for the setting of the score
- (4) Identification of the number of persons with a passing score, disaggregated by sex
- (5) Identification of the revised passing score required for admission
- (6) Determination of the proffered basis for the revision
- (7) Identification of the total number of persons with a passing score, as revised, disaggregated by sex, graduation from Law or Sharia Faculty or madrasa (further disaggregated by public/private faculty), and home province
- (8) Identification of the curriculum for the Stage
- (9) Identification of the instructors at the Stage by subject taught
- (10) Review of selected course material

- (11) Identification of the number of students passing the final examinations in semesters one and two, disaggregated by sex and graduation from Law or Sharia Faculty or madrassa (further disaggregated by public/private faculty)
- (12) Observation and evaluation of teaching methodology and student participation
- (13) Review of the Stage practicum to be offered following the third semester

ADALAT and JED program staff will be trained to observe the teaching methodology used and the level of student participation at the Stage and record their observations on the instructor observation and evaluation instrument (activity 1.1.1.6). The observations will be carried out jointly by ADALAT and JED staff, thereby ensuring that the JED, through its training unit, will be able to monitor and effectively supervise the performance of instructors in future Stages. The evaluation of the Stage will be on-going and will continue into Year 2. ADALAT will prepare a comprehensive Stage evaluation report in Year 2. ADALAT does not anticipate the need for STTA involvement in the completion of the Stage evaluation.

Expected Results:

The evaluation of the 30th Stage will provide the information needed to prepare a comprehensive report in Year 2. Based upon the findings from the evaluation, the report will draw conclusions and make recommendations for the 31st Stage, for example, for the recruitment of more women to sit for the entrance examination, and for the improvement of the Stage curriculum, course materials, teaching methodology, and practicum.

Timeline – 3rd and 4th Quarters

Performance Indicators: 1.3 Percentage of legal professionals who report improved court performance and 1.1.3 Number of recommendations from Stage Assessment implemented

Activity 1.1.1.8 Assess HR Department non-judicial staff training capacity

Initially, ADALAT will conduct an assessment of the HR Department's capacity to determine non-judicial staff training requirements as well as to develop and deliver general, managerial, operational and specialized training to the 1,800 non-judicial staff in the court system. ADALAT will conduct an HICD assessment of the SC's HR Department which will touch on training development and delivery capacity and will at the same time conduct a survey of trial and appellate court staff training needs. We will assist the HR Department in updating the non-judicial *Tashkeel* and in evaluating the content and capabilities of the HR database to support achievement of SC training goals and objectives, particularly as those goals and objectives are developed through the HR Strategic Planning process being led by the World Bank and by the SC's own internal strategic planning process that ADALAT has offered to assist.

Expected Result:

Assessment of Human Resources Department Capacity to meet non-judicial training requirements of the court system, including an update of the non-judicial *Tashkeel* and functionality and completeness of the HR database to support objectives of the HR Strategic Plan.

Timeline – 3rd through 4th Quarters

Performance Indicators: 1.1.2 Number of legal professionals and non-state justice actors trained with USG assistance

Activity 1.1.1.9 Conduct training needs assessment

ADALAT will conduct a non-judicial staff training needs assessment. Based on an agreement between the SC and the Civil Service Commission for the implementation of the Priority Reconstruction and Reform (PRR) process³ in 2009, position descriptions and job qualifications were to be established for all SC staff, and existing staff qualified, trained or re-assigned to meet the agreed to requirements for those positions. In collaboration with the World Bank Team currently updating the HR Department Strategic Plan, ADALAT will determine the extent to which PRR requirements have been implemented, particularly in the HR and Finance and Administration Departments and will review the training history data on the HR Department database to identify training needs of court staff whose qualifications do not meet minimum requirements. That assessment will be augmented by a training needs analysis to be conducted among a representative sample of court clerks, managers, judges and SC staff to identify priority training requirements. Although the percentage of female court staff is very low (7.7% in 2012), ADALAT will ensure that they are included in the sample across the provinces. The assessment will focus on determining perceived needs informed by the experience of and inputs from the staff of the HR Department. The

³ Civil Service-led assessment of all Afghanistan Ministries and the Judicial Branch starting in 2004 to document the functions of all agency departments and to determine staffing requirements and qualifications. The PRR results were adopted through an MOU between the Supreme Court and the Civil Service Commission and have been in the process of implementation through Pay and Grade Analysis since that time.

assessment will also include interviews with judges and supervisors of employees, both male and female, to determine where they perceive greatest needs are and a survey of other donor programs to determine their current programs and future plans. The results of the assessment will be shared with HR Department leadership. A non-judicial staff working group will be formed to review the results of both assessments.

Expected Results:

Based on the training needs assessment and analysis, the SC and ADALAT will produce a non-judicial training strategic plan, which will address the total number of trial and appellate court staff requiring/receiving general (orientation) training; management training, including number of court staff management positions and number of incumbents who have received management training, number of management vacancies, number of SC staff needing specialized administrative training; and number of court system personnel needing operational training in ACAS, statistics and other operational functions. The needs assessment will provide a better understanding of training currently being provided and additional training required.

ADALAT will also assist the SC with updating their PRR Implementation Plan, including minimum qualification standards for non-judicial staff and level of competence of court staff as compared to job knowledge and skill requirements.

Timeline – 2nd and 3rd Quarters

Performance Indicators: 1.1 Percentage of court users who are satisfied with the services provided and 1.1.2 Number of legal professionals and non-state justice actors trained with USG assistance

Deliverable 1.1.2

Activity 1.1.2.1 CJE program materials prepared by the Afghan Women’s Judges Association (AWJA)

The ADALAT team has had several meetings with the AWJA leadership to discuss the needs for assistance of the AWJA, the role the AWJA would like to play in the proposed Kabul regional judicial conference, and the views of the AWJA regarding the training needs of its members and of sitting judges generally. ADALAT will encourage the Chief Judges in provinces holding judicial conferences to view the proceedings of the Kabul conference to encourage women judges to play a key role in the presentation and discussion of regional issues, and ADALAT will assist the AWJA in preparing women judges to accept this role.

ADALAT will assist the AWJA in the preparation of a CJE program to be delivered by members of the Association at a plenary session of the Kabul judicial conference developed and presented under Activity 1.1.1.3. The subject of the program will be determined by the Association, in consultation with the conference planning committee formed by Gen. Nesar, Dr. Attahi, and ADALAT. Possible subjects include (1) overview of the AWJA and goals and objectives for the coming year; (2) role of women judges in provincial and district courts: why it is important to have female judges in these positions and obstacles they face in order to

get there; and (3) common gender issues in court proceedings. In the preparation of training program materials for the conference, ADALAT will assist the AWJA in research, writing, publication of materials, and presentation preparation. The assistance will be in the form of review and mentoring; ADALAT will not perform the research or prepare the materials. Conference materials prepared by the AWJA will be submitted to the conference planning committee for pre-conference review. If additional panel presentations are included on the conference agenda, ADALAT will work with the SC and AWJA to include female judges on the panels.

Expected Results:

The preparation of a CJE program by the AWJA will result in the dissemination of necessary and useful information to the judges of Afghanistan, improvement in the research and drafting skills of the women judges preparing the program materials, and enhancement of the recognition and respect accorded the AWJA within the justice sector.

Timeline 3rd and 4th Quarters

Performance Indicators: 1.1 Percentage of court users who are satisfied with the services provided and 1.1.2 Number of legal professionals and non-state justice actors trained with USG assistance

Output 1.2 Strengthened Supreme Court capacity to manage internal operations, court administration, and to ensure professional conduct among judges and judicial staff

Baseline and Needs Assessment

The SC serves as the centralized headquarters of the Afghanistan Judicial System. Administrative Departments at the Supreme Court are responsible for implementation of judicial administrative policies. These include policies focusing on performance evaluation and progressive discipline for staff as well as operational policies and procedures for non-judicial staff. This includes records management, budgeting and statistics.

In the HR Department, the SC has established an HR database that maintains information on judges and non-judicial staff. The Department has yet to develop and implement improved HR policies and practices, such as merit selection and progressive discipline, judicial or non-judicial performance appraisal, management of judicial assignments, etc. The World Bank is currently funding a short term project to develop a five year HR strategic plan.

Development of the finance and budgeting function has been characterized by an ad hoc approach to development of tools and programs. This ad hoc approach has been driven by external requirements imposed by the Ministry of Finance to adopt program budgeting, lack of SC staff training in the use of financial and budget management tools; and under-development of facilities/asset inventory databases intended to be integrated into an as yet undefined system-wide financial management program. The Court also typically

underspends its development budget and ADALAT will pay particular attention to assisting the SC in utilizing these funds.

The SC's continued reliance on donors for leading judicial reform has resulted in the judiciary failing to assume accountability for reform while continuing to look to donors to initiate and fund unsustainable solutions. Only by facilitating the SC's assumption of administrative authority and strengthening of SC administrative support will the SC be able to assert and continue to maintain judicial system administrative authority.

Prospects for reform have improved recently with the SC agreeing that the HR Department should work with the World Bank to develop a five year HR Department Strategic Plan (to be completed by December 2016). The High Council also initiated a SC-wide fifteen-year strategic planning process to be staffed by the Planning and Policy Department to document the Court's mission, vision, goals and objectives. Development and implementation of this strategic planning process with ADALAT assistance offers the potential to establish an achievable and sustainable roadmap for judicial reform for the future.

The potential to improve case management in the trial and appellate courts has been significantly enhanced through the development and upgrade of the ACAS manual case tracking system. However, the assumption remains that actual caseload data differs from that reported from the courts and compiled at the SC. ADALAT remains committed to assessing that caseload data through field testing. Further, ADALAT will review the ACAS system procedures currently employed at the courts. A critical assumption is courts have become less uniform in their ACAS practices. As part of the caseload assessment, ADALAT will review current procedures and work within an Afghan-led oversight committee structure led by the ACAS² Advisory Group at the SC.

The Statistics Department, a sub-department of the Planning and Policy Department, is responsible for maintaining the system and assuring its effective implementation throughout the court system. The SC has not formally established a department to develop, implement and maintain uniform court operational procedures, as initially proposed by the PRR. The Statistics Department has been strengthened in recent years through implementation of an automated statistical data collection and reporting system and training of Department staff. However, the SC has yet to determine how best to use court statistical data, for example to inform delay and backlog reduction, court performance evaluation, etc.

Proposed Activities

Deliverable 1.2.1

Activity 1.2.1.1 Conduct HICD assessment (*Task Order Section F.3. Deliverable 1.2.1*)

ADALAT will use the HICD format to assess organizational and process performances in the SC HR and Finance Departments. In collaboration with the relevant Department Heads at the SC, the study will culminate in an initial assessment of the capacity of the Departments to meet their organizational obligations and will include recommendations for future training or organizational changes needed to address any capacity gaps.

The HICD Assessment will also inform the SC-wide strategic planning process about to be initiated by the Planning and Policy Department as well as the HR Department strategic plan currently being developed by the World Bank and a similar effort being proposed by ADALAT for the Department of Finance and Administration. Possible recommendations coming out of the HICD assessments which might be used in the Strategic Plans include identification of needed professional staff positions, specialized training for existing and proposed new professional staff, and resource (equipment, operating procedures, etc) requirements.

Expected Results:

The HICD Assessment will include specific actions to be memorialized in an MOU between USAID and the SC setting forth the obligations of both parties to provide the resources necessary to successfully implement the agreed to solutions. This will form the basis of future ADALAT work with the HR and Finance Departments and may result in some alterations to this plan. STTA will be required for this activity.

Timeline – 2nd and 3rd Quarters

Performance Indicators: 1.1 Percentage of court users who are satisfied with the services provided

Activity 1.2.1.2 Specialized training modules and management initiatives developed to strengthen HR and Finance Departments

Recommendations based on the HR Strategic Plan, the Departmental HICD and ADALAT's training needs assessment may include developing the Departments' capacity to 1) train managers to conduct staff performance evaluations and write position descriptions; 2) supervise implementation of operational processes (case processing, management and reporting); and 3) support other administrative functions (finance, infrastructure, ethical misconduct, Stage and conference logistics).

Based on the HICD assessment of the Finance Department, ADALAT in consultation with the Director of the Department will identify the highest priority function capable of improvement through targeted training, such as implementation of the SC's physical facilities or asset inventory databases and training of senior staff in the use of data generated by those systems and improved planning and execution of the Curt's development budget. Based on the HICD determination of gaps in the Administration/Finance Department's organizational and individual staff capacity, ADALAT will determine what human and fiscal resources are needed.

Expected Results:

Training of up to 25 senior Administration/Finance professional staff to be conducted by an STTA expert in Finance on improved budget planning and implementation and effective use of data generated by facilities and asset inventory. Training of up to 25 senior HR Department staff, to be conducted by an STTA expert in Human Resources Management on

fundamental skills required to effectively implement the newly-established Capacity Building and Performance Management sub-departments

Timeline – 4th Quarter

Performance Indicators: 1.1.2 Number of legal professionals and non-state justice actors trained with USG assistance

Activity 1.2.1.3 Develop non-judicial code of conduct training

In addition to the specialized training to be delivered in Activity 1.2.1.2. ADALAT will assist the HR Department in the development of a non-judicial code of conduct and a training module to be presented as a stand-alone continuing education training or as a component of the general/orientation training program. The code will be disseminated as both an electronic and a hard copy document to all court personnel throughout the court system. The training module will be incorporated into training programs for non-judicial staff.

Expected Results:

One training of up to 100 non-judicial staff on effective implementation of the non-judicial code of conduct with the assistance of an STTA expert on non-judicial staff codes of conduct.

Critical Assumption: The SC supports development of the non-judicial staff code of conduct in place of and/or complementary to the Civil Service Code of Conduct and will communicate its importance to judicial staff.

Timeline – 4th Quarter

Performance Indicators: 1.2 Percentage of court users who report that a bribe is likely to be asked to ensure a favorable ruling/outcome and 1.1.2 Number of legal professionals and non-state justice actors trained with USG assistance

Deliverable 1.2.2

Activity 1.2.2.1 ACAS Assessment

Task Order Section F.3. Deliverable 1.2.3

In the most recent report on court caseloads from the RLS-F Final Report March 1, 2011 – October 31, 2011, the reported statistics show an incredibly low case load level per judge. During the Final Report period, RLS-F also reported that there were 1,647 active judges throughout the courts. The total number of cases closed during the 12-month period reported is 59,062. Thus, on average, each judge closed approximately 36 cases, or 3 per month. Looking at incoming cases, each judge was assigned approximately 39 cases during the year. While the actual distribution of cases shows some courts with more and others with less, it is clear that 1) there was significant inaccuracy in capturing caseload data, or 2) the

process of developing and allocating judicial resource requirements is highly flawed, or 3) a combination of both.

The SC needs to have a detailed on-site (court level) assessment of caseload data captured by ACAS, including analysis of the methodology employed to report caseload data to the SC. The original concept of ACAS was to limit the universe of case data captured to the minimum data fields required to make resource allocation and court management policy decisions. Rather than capture 50% of all data, ACAS would capture upwards of 95% of data necessary to allocate resources that would include (for example):

- Court (location)
- File date
- Case type
- Party names, including attorney, if any
- Judge/Judge Panel
- Judgment/closing date

ADALAT will support the SC to develop and conduct an assessment of the ACAS data capture process and make recommendations regarding reporting and statistical analysis protocols. Working in coordination with SC and primary/appellate court staff, ADALAT will conduct on the on-site assessments at as many court locations as possible taking into account security and logistic restrictions. Teams will be deployed to conduct the assessments that will test the ACAS data capture model at each location.

Expected Results:

Since the SC's database requires accurate information from the courts, the ACAS assessment will indicate specific current practices and deficiencies in the data collection and reporting process at each court visited. From this assessment, ADALAT will work closely with the SC and court staff, particularly through the ACAS advisory committee, so that the manual ACAS system can be re-tooled along with the development of a revised procedure manual and associated training program.

Critical Assumptions: 1) The SC provides high level support to the activity and 2) the SC recognizes and begins to address sustainability issues regarding the long term resource requirements of ACAS.

Timeline – 2nd through 4th Quarters, with final assessment and recommendations submitted to the SC during the 4th Quarter

Performance Indicators: 1.3 Percentage of legal professionals who report improved services provided by court and 1.2.1 Number of USG-assisted courts with improved case management systems and 1.2.2 Percentage of courts submitted ACAS statistical data accurately and on-time

Activity 1.2.2.2 ACAS materials reproduced and distributed

The long term sustainability of ACAS requires the SC to develop and administer adequate budgets that includes annual and periodic (as needed) production and distribution of ACAS materials. While ADALAT will work with the SC to develop that capacity as well as the procedures to ensure sufficient resources are identified and allocated to procure and distribute ACAS materials, the courts currently are facing a critical shortage of those materials. Courts with no materials have begun to “re-cycle” case files from closed cases to new cases. This co-mingling of case information can potentially make data capture and reporting from ACAS unmanageable.

To ensure Afghan courts have sufficient supplies of ACAS materials, ADALAT will produce and distribute materials in conjunction with the ACAS assessment. This activity will provide an immediate positive impact on court operations throughout Afghanistan and help ensure accurate data is available during the assessment. Since future planning – both strategic and tactical – will be informed by the assessment, it is critical that courts have accurate and accessible case files.

ADALAT will work with the SC to identify the number and type of case file jackets and registry books required to bring courts into conformance with ACAS procedures. Materials will be procured and distributed through the SC.

Expected Results:

ACAS materials for the current year, 1395, will be produced and distributed to the courts.

Timeline – 2nd (and possibly 3rd) Quarter(s)

Performance Indicators: 1.2.1 Number of USG-assisted courts with improved case management systems

Activity 1.2.2.3 SC statistical reporting and analysis procedures strengthened

The SC’s use of timely and accurate caseload statistics is critical to its ability to develop and implement policies and procedures that will guide court operations so that judicial services are delivered more efficiently, and transparently to the public. To fully utilize caseload statistical data, the SC must have adequate procedures – and systems – in place to capture, analyze and report the data. With ACAS used in almost all courts, it is the system that will provide the raw data for the SC’s statistics models; therefore, ACAS and the SC statistics system must be fully integrated and compatible.

ADALAT will work with the SC’s Planning and Policy Department to review and evaluate the current caseload statistics model(s) to ensure that procedures are in place that will allow maximum compatibility with ACAS.

Further, the use of statistics must be incorporated into the regular policy development and court management functions of the SC. As the ACAS and statistics systems are assessed, ADALAT will work with the SC to better understand and utilize caseload data as a means to

plan, act and follow up on a variety of critical issues, particularly those that deal with judicial staffing, resource (human, physical and financial) allocation, and training requirements. ADALAT will coordinate with JSSP (CMS developers) to ensure the ACAS and CMS development moves forward within a complimentary framework or protocols.

Expected Results:

The Planning and Policy Department's statistics work is fully documented and all procedures that intersect with ACAS data capture protocols are compatible.

Timeline – 2nd through 4th Quarters

Performance Indicators: 1.1 Percentage of court users who are satisfied with the services provided and 1.2.2 Percentage of courts submitted ACAS statistical data accurately and on-time

Deliverable 1.2.3

Activity 1.2.3.1 Assessment of selected national code of conduct enforcement mechanisms

While a comprehensive code of judicial conduct is a key component to building and ensuring public trust and confidence in the judiciary, the Judiciary must develop a transparent mechanism for the enforcement of the ethical standards set forth in the code. The SC adopted a regulation judicial conduct for judges in 2007. The regulation fully comports with international standards. In 2008, the SC adopted another regulation dealing with judicial discipline. The Regulation on Considering Discipline incorporates the ethical standards prescribed in the Regulation of Judicial Conduct and provides for a confidential investigation of alleged ethical violations by the court's Department of Inspections; it also mandates the criminal prosecution if appropriate. However, from the standpoint of international standards, the Regulation on Considering Discipline is deficient in that it does not provide for (1) a confidential citizen complaint process; (2) due process protections for judges accused of having committed an ethical violation; and (3) assurance that the judge's ethics hearing is open to the public. In the past, the SC has been particularly reluctant to consider the adoption of a confidential citizen complaint process.

ADALAT will survey the laws and regulations of several countries in the region to determine the regulatory mechanisms used in those countries in the enforcement of their codes of judicial conduct. ADALAT will also seek the advice of the AWJA regarding possible amendments. Based upon this research, and in consultation with the Director of the SC Inspections Department and judges from the Department involved in reviewing complaints of judicial misconduct, ADALAT will prepare an assessment report for the SC outlining ADALAT's findings and proposing to the SC that it amend the Regulation on Considering Discipline to include a confidential citizen complaint process and to bring the Regulation into conformity with international standards. STTA will be required.

Expected Results:

The assessment will form the basis for a concerted effort by ADALAT, in conjunction with the AIBA and interested CSOs, to convince the SC to amend the Regulation on Considering Discipline, and to undertake a confidential citizen complaint process pilot project in selected districts.

Timeline – 2nd and 3rd Quarters

Performance Indicators: 1.1 Percentage of court users who are satisfied with the services provided, 1.2 Percentage of court users who report that a bribe is likely to be asked to ensure a favorable ruling/outcome and 1.3 Percentage of legal professionals who report improved services provided by court

Output 1.3: Strengthen the capacity of the Afghan Independent Bar Association to professionalize the legal profession

Baseline and Needs Assessment

The AIBA currently has 2,891 active members of whom 673 are female or 23%. The majority (2,170) of the AIBA's members are concentrated in four provinces: Kabul (1,248), Herat (393), Balkh (309), and Nangarhar (220). Sixteen provinces have one or none women AIBA members.

The AIBA headquarters in Kabul provides most of the organization's services to members throughout the country, which includes long-term practical legal training in preparation for the bar entrance exam (Stage), and for practicing lawyers, short-term targeted substantive and procedural legal training considered continuing legal education (CLE). The provision of these trainings has been uneven and dependent on donor support with only one Stage held for 21 new lawyers several years ago and limited CLE provided when donor funding is available. A second Stage is planned for this fall in Kabul, with Afghanistan Independent Defenders (AID) developing the curriculum and delivering the training. Other AIBA services include issuing of licenses to practice law, representing members' and the bar's interests throughout the justice system, engaging in public awareness campaigns and advocacy for women's rights. Additionally, AIBA's Kabul office also advocates for legal reform and works to ensure its members provide pro bono services.

AIBA has five regional offices in Kunduz, Balkh, Herat, Kandahar and Nangarhar. The regional offices process applications to join the AIBA, hold meetings with local government officials to discuss issues raised by the membership and provide limited training opportunities. GIZ currently supports the Kunduz office financially and technically. GIZ intends to begin working with the Kunduz office to develop a sustainability plan, which might be used, if successful, as a model for other regional offices. The United States Institute of Peace (USIP) has been providing financial and technical support to the remaining offices, but this support is scheduled to end in October 2016.

AIBA implements certain other donor activities in support of its members, which include the TAF legal clinics project and the United Nations Development Program (UNDP)'s Afghanistan Access to Justice Project, called the "Legal Aid Grant Facility" (LAGF). The LAGF is currently active in Herat, Helmand, Nangarhar, Bamiyan, Daykundi, Badghis, Ghor

and Balkh. For the UNDP funded project, two NGOs, the AID and Khawar Miwand provide lawyers to represent indigent defendants in criminal cases. These are not projects specifically intended to build a professional and sustainable bar association to serve its constituents, however, they provide some operational cost benefits and ad hoc trainings to AIBA members.

A member survey conducted by ADALAT team member AJO in 2013 revealed that the vast majority (95%) of AIBA members felt that the AIBA's main service and function was to provide licenses to lawyers authorizing them to practice law. A smaller percentage of the members knew that the AIBA provides or should provide other services and benefits such as developing better relationships between lawyers and the government justice sector, promoting and defending the bar, its members and the mission, and advocating for legal reform to promote a fair and transparent justice system. Anecdotal evidence suggests that the opinions of members has changed little since 2013.

AIBA does not currently have the resources or the technical skills to engage in public policy advocacy. The President of AIBA occasionally appears on television or participates in conferences that promote certain laws or deals with particular cases, for example the tragic killing of Fakhunda by a mob a year ago in Kabul. The AIBA's media committee is only active in Herat. TAF has recently embedded an advocacy officer with AIBA in Kabul to develop the Association's advocacy capacity and they along with GIZ are encouraging the Association's leadership to be more active.

The AIBA's monitoring board functions as the reviewer of complaints against lawyers and is responsible for disciplining members. The Board consists of five members who review each case from Kabul. There are also three members identified in each province whose function is to receive complaints against lawyers, prepare files and reports and forward them to the Kabul office board members for adjudication. According to AIBA the board reviews about a 100 cases per year.

The Advocates Law requires each lawyer authorized to practice law to take on three cases annually on a pro bono basis. While accurate accounting for each individual does not exist to validate whether members meet this requirement, the AIBA does have some data indicating that members do provide pro bono representation mostly in the four provinces of Kabul, Nangarhar, Balkh and Herat.

The AIBA has provided very few opportunities for prospective members to take the post-graduate training required to join the bar, thus only partially fulfilling its legal mandate to license lawyers. In addition, the AIBA does track pro bono cases as required. The leadership has looked to donors to fund the AIBA and address the issues for them. Clearly the time has come for the leadership of the AIBA to lead the change required for it to become a truly independent representative of the private bar. As part of this process leadership issues need to be addressed through a long-delayed general assembly where member participation is paid for by the members themselves. Without some "skin in the game" it's not surprising that the AIBA membership doesn't take much interest in the business of the bar. With a fresh mandate, AIBA leadership can assess what is truly possible and sustainable. For example: does it make sense for the AIBA to undertake training of new lawyers or should some other group or groups do that, how useful are regional offices and if useful what is the right size for these offices, can the AIBA legitimately track the number of pro-bono cases

undertaken by members. The original assumptions about what sort of support the AIBA needs must be reassessed and AIBA leadership must become more involved in addressing these issues with the resources they can bring to the table. If the AIBA finds that it cannot address them, then they must enter into discussions with the government to amend the Law on Advocates rather than look to donors for continuing support.

Proposed Activities

Deliverable 1.3.1

Activity 1.3.1.1: Bridge Grant and HICD Assessment (Task Order Section F.3. Deliverable 1.2.1)

The bridge grant will fund vital services while an audit and HICD assessment are completed. It is anticipated that this bridge grant will provide the minimum support necessary for the Kabul office and the regional offices to remain open. The bridge grant will cover the costs of the external audit which is expected to provide a more accurate picture of the AIBA's current financial status, identify funding sources and weaknesses in management controls. The auditor's report will be made public so that the membership and donor community is aware of the AIBA's financial situation.

Using the HICD tool, ADALAT will examine how the AIBA performs against its stated goals and how it measures progress towards achieving those goals, how internal functions and processes support (or inhibit) the achievement of institutional goals and examine the role of staff in achieving those goals. Working in close consultation with the AIBA, the HICD assessment team will develop a series of performance solutions that will form the basis of the Memorandum of Understanding (MOU) between ADALAT and the AIBA which will inform the structure of the follow-on grant and types of technical assistance.

Expected Results: Enable the AIBA to continue to provide services while the HICD and the external audit are taking place. The assessment and audit will provide information about how the AIBA is performing and what its resources are which will enable ADALAT to specifically address those areas that need support and help the AIBA to plan for a sustainable future as a professional association responsible to its membership and the community.

Timeline – 2nd Quarter

Performance Indicators: 1.3.3 Percentage of AIBA members who report being satisfied with services

Activity 1.3.1.2: Grant for Institutional Capacity Building and Improved Member Services

Task Order Section F.3. Deliverable 1.3.1

In the second half of the year ADALAT will award a grant to the AIBA that will focus on providing core financial support to build the capacity of the Association and that will improve member services and benefits. Grant funded activities and ADALAT technical support and

capacity building activities will be determined as a result of the audit and HICD assessment. What follows are priority areas that are likely to be supported because of the information gathered with bridge grant funding.

Strategic planning. Using the audit and HICD assessments as a starting point, both technical and grant support will be directed at the drafting of a long-term strategic plan that will chart a course for the AIBA to become a self-sustaining professional association that provides value-added services to its members as well as to the community within 4 years. The assessment and audit will provide a basis for a review of AIBA priorities. ADALAT will assist them in projecting member growth and possible future income from member dues and other sources. Suggest new sources of income and resources needed to develop them. Based on projected revenue the AIBA Board of Directors will be able to plan to right-size the organization and develop realistic expectations as to what can be accomplished with the resources available. This may require the altering of the AIBA's mission statement and discussions with the government about realistic expectations of the role the AIBA can play in the justice system.

Capacity building. It is not known what percentage of AIBA's budget comes from member dues and what comes from donors. The audit will give us a clearer picture of AIBA's revenue streams. ADALAT will work closely with Association staff to develop appropriate financial management systems including budget planning, financial controls and annual reporting to the government and the Association's membership. The ADALAT staff will provide support to strengthen internal operations and develop procedure manuals that regulate personnel administration (including gender-sensitive hiring policies and an anti-harassment policy) operations and logistics, and ICT systems. Specific interventions and training will be suggested by the HICD assessment.

Leadership Committee. ADALAT will also work with the Leadership Committee on various aspects of developing a professional bar association including leadership skills, bar association management, the importance of transparency and accountability to members, and drafting annual reports. As a condition of this support, the AIBA's Leadership Committee will commit to holding an annual election to elect a president, vice president and board which represents the gender mix of the Association. The grant may also include support for the annual conference or regional conferences as part of the election process.

Increasing AIBA's public policy advocacy role. The AIBA also has the opportunity to develop, influence, and encourage needed law reforms (including adherence to human rights standards and greater legal protections for women and marginalized groups) and promote the rule of law and independence of the legal profession and judiciary. It is critical that the AIBA assume this greater role in the development of a fair and transparent justice system. With the recent appointment of a Chief Justice and Attorney General who have expressed an interest in greater community input there are new opportunities for the bar to have an impact on major policy issues affecting the justice sector. The ADALAT team will work closely with TAF's embedded advocacy advisor to develop the outreach and advocacy capacity of the AIBA Board of Directors and the nascent advocacy committee on ways to present and advance policy with the executive branch and to law makers using a variety of media for engagement.

Increasing the role of the AIBA Women’s Committee. With technical and grant support, ADALAT will equip members of the Women’s Committee with skills to successfully advocate for the rights of women’s access to justice including monitoring, representing and advocating for those women who are unlawfully detained and incarcerated. Specific training developed to build the capacity will include advocacy skills, practical substantive and procedural trainings, networking skills, media engagement skills, and law practice management skills. ADALAT will also encourage and support the Women’s Committee members to be role models for young Afghan women and girls who aspire to be lawyers, prosecutors or judges by visiting high schools and universities to discuss career opportunities for women lawyers. An action plan in consultation with the Women’s Committee will be drafted to increase the number of female AIBA members and to develop ways to encourage female lawyers to practice law in areas underserved by female lawyers. A prominent section of the AIBA website will be dedicated to the activities of the Women’s Committee to engage young generation as well as raise public awareness on women’s issues both in the legal profession and the needs of the Afghan women in general.

Support for Regional Offices. Depending on the findings of the audit some level of support will be provided to regional offices so that they can continue to provide services to AIBA members in the regions. As part of the sustainability planning exercise, the role of regional offices and their funding will be studied to determine how the Association can ensure their continued existence as well as determine the need for new regional offices. Support for regional offices will include a review of their role and that of the Kabul office in licensing new lawyers and renewing the license of current members. ADALAT will review, assess and in collaboration with the AIBA, revise and streamline the licensing process. Specifically, ADALAT will assist the AIBA in making the license forms available on line through the AIBA website, and raise awareness about the benefits of membership and the consequences of practicing law without a license. AIBA staff will be trained on the requirements for license renewal, including the requirement to have provided pro bono services.

Lawyer Referral System. Improving member benefits and services, ADALAT in collaboration with AIBA will help establish a client referral system. A referral database will be developed containing information on every member throughout Afghanistan. Regional offices will have access to the database so that they can make referrals to members of the public who come to the office. The regional offices will be encouraged to promote the referral service locally through the courts and local media. The AIBA’s website will also contain information on obtaining a referral. Ways to make the referral system self-sustaining will be explored during this first year of grant support, which might include charging a small fee for the referral to either the prospective client or members who receive referrals.

Expected Results: Continued AIBA core support. Increase in membership resulting in increased revenue for AIBA. A strategic plan containing a revised mission statement and a four-year plan for the Association to become sustainable. Administrative staff able to better manage Association funds and deliver improved services to members. Outreach and policy advocacy by the Association for an improved justice system. Increased member satisfaction with AIBA services.

Timeline – 3rd and 4th Quarters

Performance Indicators: 1.3.1 Percentage of AIBA professionals who report having accessed continuing legal education, legal resources, or other services in the past year and 1.3.2 Percentage of AIBA budget self-financed

Deliverable 1.3.2

Activity 1.3.2.1 Support for CLE and initial professional training

Support for training will be provided through the grant awarded under Activity 1.3.1.1 and will include technical assistance from the ADALAT team. The law requires that every person who desires to practice law must go through a 9 months practical legal training program (Stage) after graduating from a university Law or Sharia Faculty. The AIBA has only provided this training once for a small number of new lawyers and then only with donor support. We anticipate that our audit and subsequent strategic plan will find it unlikely that the AIBA can sustainably support either a Stage for new lawyers or CLE for current members. It is also unlikely that a Stage program can be organized in the remaining months of Year One given that there has been little done to develop a curriculum or identify trainers in the years since the last Stage. Because AIBA does not have the resources nor the financing to sustain a 9 month STAGE program, Checchi expects to assist the AIBA in exploring ways to fulfill the 9 month Stage requirement by providing the initial training for new lawyers indirectly through, for example, clinical programs being implemented at university law and sharia faculties as part of the INL-funded Legal Aid through Legal Education (LALE) Program, and through our own grants to private universities wishing to improve their law curricula. Under this model the AIBA would take on a role as an accreditation body that will recognize programs at universities as fulfilling the training requirements in the Advocates Law for admission to the bar. Other models may also be explored including having the AIBA provide the training directly on a fee basis.

A similar approach can be taken to provide CLE for members of the bar. The first step will be to determine the needs of the profession through a member survey asking what sort of CLE training would interest them or they need the most. ADALAT will assist the AIBA in developing several model CLE courses on topics that are identified through the survey and will provide members the opportunity to take the courses at the annual meeting or at regional offices on a limited basis. We will recommend that the AIBA administer and regulate CLE standards, organize venues for courses, and market the course offerings to their members while outsourcing the design and delivery of courses using an accreditation process that gives Afghan lawyers and law professors an opportunity to become certified CLE instructors. The ADALAT team will help the AIBA to develop standards, a certification process, and a fee scale, while allowing prospective CLE instructors to propose their own courses. Using the ADALAT-developed CLE courses as a model, we will work with the AIBA to construct standard templates for courses, which would include course objectives, learning outcomes, evaluation tools, teaching guides, and student resource materials. Prospective CLE instructors could use these templates to develop their own courses and materials. Our embedded advisors will also provide training to the AIBA staff in low and no-cost marketing of CLE courses, taking advantage of direct email marketing, social media postings, *Wekalat* magazine (the AIBA's in-house publication), and postings at regional offices. Finally, ADALAT team will assist the AIBA to develop a system for evaluating course content and instruction as well as how to incorporate feedback from participants into future course development.

Expected Results: Training programs for new lawyers and current members offered widely.

Timeline – 3rd and 4th Quarters

Performance Indicators: 1.3.1 Percentage of AIBA professionals who report having accessed continuing legal education, legal resources, or other services in the past year

Sub-Purpose 2 Strengthened Formal-Traditional Justice Sector Linkages

Baseline and Needs Assessment

The fundamental challenges faced by the *Huquq* Department of the MOJ remain largely unchanged since issuance of the ADALAT solicitation. Certain developments and new information, as discussed here, may influence the activities proposed below. The *Huquq* Department is well conceived as a culturally consistent bridge between the formal justice sector, traditional justice providers, and Afghan communities. In practice, however, the department faces significant obstacles to achieving its mandate. The legal framework in which it operates, particularly laws and regulations shaping its relationship to the informal justice sector, are ambiguous and unsettled, hindering, for example, *Huquq* officials' ability to register legally resolved TDR decisions. An updated version of the *Huquq*'s primary governing law, the draft Law on Obtaining Rights, has been considered by the Cabinet, revised by the MOJ *Taqnin* Department, and submitted to parliament. Another draft law on informal dispute resolution, the Conciliation Law, or Jirga Law on Civil Disputes, has been submitted to the Cabinet for consideration. If finalized and harmonized, these new laws would further clarify and formalize *Huquq*-TDR cooperation. A timeline for that is unknown, although USIP/TLO and others are working to generate official and public support for passage of the Jirga/Conciliation Law. Minister of Justice Abdul Basir Anwar's interim focal point for the national *Huquq* Department and Kabul Province *Huquq* Department Director, Mohammad Omar, recognizes these drafts as beneficial to formal-informal justice linkages and is optimistic that they will be passed into law soon.

In many districts, *Huquq* officials lack the legal knowledge, dispute resolution skills, and managerial expertise to effectively fulfill their responsibilities. Where *Huquq* officials hold only secondary degrees or none at all, elders complain that the office is "of no use to us." Fortunately, Minister Anwar has issued a directive requiring that new MOJ professional recruits be law or Sharia faculty graduates. Nonetheless, with only minimal respect for many existing *Huquq* officials, TDR practitioners and the public typically see them, and the formal justice system generally, as unnecessary or even burdensome. This lack of a value-added linkage between the *Huquq* and TDR contributes to missed opportunities in rural Afghan communities to increase access to justice and build state legitimacy. The enthusiasm of Minister Anwar, Kabul Director Omar, MOJ Human Resources Director, Ubaidullah Ebadi, IDLO and GIZ for an institutionalized induction, retraining, evaluation and CLE program indicates that the MOJ and *Huquq* are ready for robust engagement.

It is clear, however, that the current MOJ Training Department *Tashkeel* is inadequate to fully staff such a model. It includes one management trainer, one juvenile rehabilitation center trainer and three substantive legal trainer positions. IDLO reports they are realistically

only capable of managing training efforts rather than delivering substantive legal and skills-oriented (communication, mediation, administration, etc.) training. One training manager himself reported that in six months these trainers have only delivered two trainings in two locations. Furthermore, the trainers are responsible for the *Huquq*, Government Cases, Legislative, and Legal Aid Departments. Changing the *Tashkeel* to add additional and more qualified training staff is a time and energy consuming legislative and budgetary process. Donors, including INL (through its JSSP project) have embedded trainers in the Training Department on an ad hoc basis. At the leadership level, the Training Department head position is unfilled but is in the Capacity Building Results (CBR) process. Similarly, the long-term absence of a permanent national *Huquq* director could challenge organizational focus and engagement efforts. Further, having very few to no female *Huquq* staff and trainers limits options for women seeking dispute resolution services, including on family and divorce issues.

Staffing aside, the *Huquq* and most donor-sponsored professional training programs have often been geographically restricted, more closely resembling needs-based continuing legal education (CLE) than a comprehensive *Huquq*-specific induction model. Targeted assessments have been done or are in process, including an IDLO assessment to inform specialized training modules. IDLO has continued its training of the three legal trainers referenced above and trained MOJ professional staff in the provinces to serve as part-time trainers. The MOJ, however, lacks a systematic program for dispersing trainings to other provincial or district staff and the trainers are not focused on the *Huquq*. Furthermore, whether or not these trainers have sufficient time to administer any newly created training program to rural staff is questionable. Both IDLO and GIZ readily acknowledged the need for a Stage-like program to ensure solid foundations for new and existing *Huquq* professional staff and that such programs would complement their programming.

MOJ training capacity and donor assistance aside, the MOJ is currently only utilizing about 20 of 50 spots set aside for it in the National Legal Training Center (NLTC)'s induction training program, or Stage, for government justice-related professional staff. Furthermore, the MOJ does not require Stage graduation for new hires. ADALAT is currently exploring the Stage requirement and underuse of the NLTC with the MOJ and NLTC. Initial feedback from both indicates potential willingness to resolve the current divide and bolster their training relationship. We also expect further information to come to light during the HICD assessment. Should the MOJ begin to require Stage graduation for new hires and decide to use the NLTC, ADALAT will adjust its activities accordingly. Given the NLTC's government funding as part of the national university system, MOJ utilization of its training slots in the NLTC Stage would resolve some of the resource issues identified above. Reports are, however, that the NLTC Stage curriculum could be improved with, for example, components tailored to the needs of specific departments, including the *Huquq*, rather than the generalized version being administered to all participants concurrently. NLTC leadership appears willing to consider MOJ input on and an overall review of its curriculum. ADALAT has scheduled additional meetings with the NLTC, MOJ, and Independent Public Administration and Civil Service Commission to continue addressing these staffing and training issues. Regardless of which entity trains MOJ/*Huquq* staff, dissemination of training to new and existing staff from the regions is a resource challenge the parties have begun to discuss as well.

Minister Anwar acknowledges that the department's case management system, like its training program, is outmoded and would welcome a review and update. Human Resources Director Ebadi also said that *Huquq* professional staff members often indicate a need for organizational and case management support. GIZ is working with *Huquq* officials in the North and with Italians in Herat to develop a case management system, including case files and logbooks that are derived from and generally compatible with the courts' ACAS system. All formats have been finalized and GIZ is preparing to commence a three to four-month pilot in the north. Additionally, JSSP has developed a digitized CMS system in Kabul and 12 provinces. GIZ has discussed compatibility between its system and JSSP's, but it appears that case numbering and other issues remain unresolved, so refinement of GIZ's system and harmonization are areas ripe for engagement. When these issues are resolved and a national system finalized and adopted, GIZ envisions a joint rollout in conjunction with ADALAT and the Italians.

In conclusion, the *Huquq* legal framework reform process must be tracked closely and supported where possible to ensure relevant policy revision and training assistance to the MOJ/*Huquq*. As *Huquq* legal frameworks and mandates are adjusted, so must be internal policies and training curriculum. Given the significant need for training policy revisions and professional staff capacity building, and the resource obstacles to addressing those needs, the MOJ could benefit from institutional assessments. These will illuminate internal management and leadership issues, identify where external opportunities are being missed, and highlight underfunding of critical needs. Such a process could help the MOJ harness its full set of internal resources and external institutional relationships. Finally, MOJ and donor efforts have laid a solid foundation for establishment of a *Huquq* case management system. ADALAT is well positioned to add value to the system and cooperate in its full rollout. Progress in these areas will assume government and MOJ commitment, including: policy reform where required; allocation or reassignment of resources, including staffing; and/or willingness to partner with other institutions to address acknowledged needs. To bolster this commitment, program engagements should emphasize ownership by government counterparts at each stage - from assessment to final solutions.

Output 2.1 Increased Ministry of Justice capacity to train *Huquq* professional staff

Proposed Activities

Deliverable 2.1.1

Activity 2.1.1.1 HICD assessment of *Huquq* completed (Task Order Section F.3. Deliverable 1.2.1)

ADALAT and the MOJ *Huquq* and Training Departments will conduct a comprehensive HICD assessment of the *Huquq*'s organizational, staffing, training, and evaluation capacities and needs, as discussed in Activity 1.2.1.1. ADALAT anticipates that the assessment will identify and refine our understanding of the known challenges above: incomplete legal, regulatory, and policy frameworks; limited professional capacity; inadequate training policy, curriculum and resources; lack of female staff; unclear or missing TORs, etc. As examples, the Stage requirement for new hires and NLTC cooperation issues will be examined to ensure a well-

defined basis for training program development or reform. ADALAT and the *Huquq* will use the process to specify the sources of performance gaps, identify actionable solutions, and negotiate a memorandum of understanding outlining our agreed roles and resources in pursuing those solutions. As a practical matter, the HICD process will identify current staffing numbers and estimates of annual inductees to determine initial estimates of trainers needed to staff a *Huquq*/MOJ training institute/program or whether or not NLTC training capacity is adequate to serve the MOJ's training needs. Further details of training program substance, budget, and staffing needs will be collected during the *Huquq* training needs assessment discussed below. ADALAT will maximize MOJ ownership of the HICD process by involving key leadership and keeping higher-level officials such as Deputy Minister Hashimi and Minister Anwar apprised of progress and ideas for Ministry self-sufficiency.

Expected Results:

The collective HICD process will result in a "Performance Solutions Package" and MoU between USAID and the MOJ/*Huquq* Department outlining the commitments of both parties to successfully implement agreed to solutions, which may include policies and procedures, staffing plans and recruitment criteria, training requirements, protocols, more detailed assessments, etc. It is hoped that with participation of key stakeholders, government support for joint action, including adequate resourcing, will be achieved.

Timeline – 2nd and 3rd Quarters

Performance Indicators: 2.1 Percentage of *Huquq* users who are satisfied with the services provided

Activity 2.1.1.2 Assistance to the MOJ/*Huquq* with amendments to training-related policies and procedures

ADALAT will continue discussions with the MOJ on requiring Stage graduation for new recruits. ADALAT will also facilitate discussions between the MOJ and NLTC on fully utilizing the MOJ's allocated slots in the NLTC Stage. Should the MOJ begin to require Stage graduation and agree to utilize the NLTC, the following activities will be adjusted to reflect NLTC's role in assessing and developing/revising its induction and retraining models to best meet the needs of *Huquq* professional staff.

ADALAT will also consider support to the MOJ in completing specific HICD recommendations with priority given to *Huquq* training-related tasks. For example, if recruitment criteria for trainers is identified, ADALAT will consider support for the Training Department in creating the criteria. If *Huquq* professional staff TORs need to be updated due to approval of pending legislation, ADALAT may assist in that effort and ensure that the new information is addressed in training materials, as discussed below.

Expected Results:

Relevant documents created and amended as needed.

Timeline – 3rd and 4th Quarter

Performance Indicators: 2.1.2 Percentage of *Huquq* professional staff who have received training and support materials

Activity 2.1.1.3 Cadre of Trainers recruited or assigned

Should the MOJ modify its training policy to require Stage graduation and agree on use of the NLTC Stage, key NLTC trainers/staff will participate in the *Huquq* training needs assessment and NLTC curriculum review and revision below. This will allow NLTC staff a complete understanding of *Huquq* training needs and enhanced ownership of the NLTC training program.

If the MOJ and NLTC are unable to agree on use of the NLTC Stage for *Huquq* professional staff, ADALAT will work closely with the MOJ and other donors to refine recruitment criteria for trainers and assist with the necessary advocacy to promote *Tashkeel* revisions so that adequate numbers are available to meet the needs of a new training model/institute, or *Huquq* Stage. ADALAT anticipates challenges in winning approval of additional staff and resources and amendments to its training *Tashkeel*, as discussed above. Should this process take time, as is likely, ADALAT will consider moving ahead with the training needs assessment (and induction/retraining design in Year 2) with existing training staff, professional staff, and short-term substantive and administrative experts – in close coordination with other donors. Once designed and developed in full, the training model could be rolled out on a pilot basis to select representative locations by existing *Huquq* and Training Department staff, and, potentially, short-term experts. Demonstrating and refining a well-designed gender-sensitive training program in practical terms may bolster critical support for adequate resources for future scale up.

Expected Results:

Involvement of NLTC training staff or recruitment of a MOJ cadre of trainers will assist the NLTC and MOJ to assess *Huquq* training needs, develop a comprehensive training model, and bolster the MOJ's capacity to select, train, and monitor and evaluate adverse professional staff.

Timeline – 3rd Quarter

Performance Indicators: 2.1 Percentage of *Huquq* users who are satisfied with the services provided and 2.1.2 Percentage of *Huquq* professional staff who have received training and support materials

Activity 2.1.1.4 *Huquq* training needs assessment

Expanding on the HICD assessment and in close coordination with other projects, ADALAT will support the MOJ's training and relevant staff, external experts, and NLTC staff (should the MOJ and NLTC agree on using the NLTC Stage for MOJ/*Huquq* staff) in conducting a more detailed and comprehensive training needs assessment of *Huquq* professional staff. To inform Year 2 design of all aspects of a comprehensive induction, retraining, and CLE model, the assessment will include a review of *Huquq* legal and regulatory frameworks, policies and procedures, professional staff TORs, etc., to identify all essential procedural,

legal, and administrative knowledge and skills required to successfully fulfill their duties. Care will be taken to identify any gender gaps in these areas. Past and present assessments, and training models and materials conducted by the *Huquq*, MOJ Training Department, NLTC, IDLO, GIZ, Hamida Barmaki Organization, JSSP, and others will be reviewed for incorporation into a new *Huquq* Stage curriculum or review and revision of the existing NLTC Stage. If the review uncovers limited modules and materials with focus on women's rights and relevant laws, ADALAT will recommend their inclusion. Depending on the extent and substance of past assessments, ADALAT will consider administering questionnaires/self-assessments, knowledge assessments, and focus groups with new and existing professional staff in partnership with relevant substantive and procedural law and training experts.

Expected Results:

The training needs assessment will provide a detailed understanding of *Huquq* professional TORs and SOPs, training provided to, and additional training needed by, degree holding new hires and less educated existing staff. Based on extensive input from the MOJ and donors, this will likely result in detailed recommendations for a comprehensive induction program for new hires, "Foundation" or retraining program for existing less educated staff, and flexible CLE model for ongoing refresher training for all staff. (Whether or not these models are developed and resourced and housed within the MOJ or NLTC depends on the outcome of ongoing discussions.) This program will contain recommendations for recruitment and retention of women nationwide. Participation in the needs assessment will also ensure MOJ and/or NLTC trainer understanding and ownership of the training model, including their own and future trainer TOTs. Recommendations for the training model will include curricula and materials, which will be spun off into reference guides similar to judicial bench books. ADALAT anticipates commencement of training program development or review and revisions to the NLTC Stage in the first quarter of the second year.

Timeline – 3rd and 4th Quarter

Performance Indicators: 2.1.2 Percentage of *Huquq* professional staff who have received training and support materials

Output 2.2 Increase administrative and outreach capacity of the *Huquq* Department at the central provincial, and district level

Proposed Activities

Deliverable 2.2.1

Activity 2.2.1.1 National *Huquq* case management assessment

The ADALAT case management team in collaboration with *Huquq* staff will conduct an assessment of the *Huquq* case management needs and current system concurrent with or immediately subsequent to the ACAS assessment under Sub-purpose 1 above. This will include an assessment of the pilot case management project conducted by GIZ in the north for its local appropriateness and compatibility with the ACAS court system and JSSP CMS

database. Case numbering, case categorization and terminology, dates, etc., will be considered to ensure ease of tracking within and between the *Huquq* and courts. In formulating recommendations for a permanent system, special attention will be given to sustainability – the system must be implementable in rural areas and within the government’s budget, but also compatible with centralized digital systems. During this review process, special attention will be given to the status of *Huquq* and formal-informal justice linkage legislation to ensure that the case reporting and filing system, protocols, and mechanisms comply with current law. Assuming final case management system recommendations are accepted by the *Huquq* and relevant stakeholders, the ADALAT Team will assist the *Huquq*, working with GIZ, INL and the Italians, to finalize and roll out the system, including training, beginning in Year 2. The ADALAT Team will also assist the *Huquq* to develop a procedures manual for the new system and incorporate a case management module into the *Huquq* training programs.

Expected Results:

A complete understanding of *Huquq* case management needs and recommendations for addressing them will aid the development or finalization of an effective and sustainable case management system, including a procedures manual, all forms/tools, etc. Systemized case management and tracking will increase organizational and administrative capacity of the *Huquq* at the central, provincial, and district level, thereby improving *Huquq* efficiency and user experience.

Timeline – 4th Quarter

Performance Indicators: 2.1 Percentage of *Huquq* users who are satisfied with the services provided, 2.2.1 Percentage of districts where case management systems are being utilized and 2.3.1 Number of TDR decisions registered and recorded by the *Huquq* in USG-supported districts

Output 2.3 Increased *Huquq* interactions with traditional justice sector actors

Proposed Activities

Activity 2.3.1 Strengthened coordination between *Huquq* and TDR actors

Numerous ADALAT activities will contribute to increased interaction between *Huquq* professional staff and traditional justice actors. ADALAT in collaboration with USIP will support TLO in its ongoing outreach and education efforts to the public, media, cabinet, and parliament on the draft Conciliation/Jirga Law legislative and regulatory processes. If and when it and the *Huquq* Department’s primary governing document, the Law on Obtaining Rights are passed into law, ADALAT will consider assisting the *Huquq* with updates to its policies and procedures (re Activity 2.1.1.2) and case management mechanisms (Activity 2.2.1.1) to ensure *Huquq* staff have the authority and means to engage TDR in accordance with the updated laws and regulations and are informed of those updates (re recommendations for training in Activity 2.1.1.4).

Working closely with the *Huquq* and CSO partners, the ADALAT Team will support district-level *Huquq* officials to more actively participate in the Afghanistan Justice Engagement Model (JEM) (formerly “RLS-I Model”) (Activity 2.4.1.1) as members of the state-TDR working groups during formal-informal justice protocol coordination meetings and issues-based discussion sessions. This could include *Huquq* hosting and facilitation of such meetings and, where qualified, training in legal education workshops and serving as legal experts in discussion sessions. As deemed possible within cultural restrictions, *Huquq* representatives will be encouraged to meet with women’s *spinsary* groups. Such meetings will help defuse myths about the state justice system and give voice to women’s justice concerns. Having female *Huquq* staff would make these interactions less challenging.

ADALAT will explore with the MOJ making such ongoing interactions between *Huquq* professional staff and male and female dispute resolvers a permanent part of *Huquq* SoWs and training to encourage *Huquq* leadership in bridging the informal-formal justice divide. This will encourage ongoing linkage activities, including and especially in districts where JEM is not being implemented by CSO partners. Work with specific district *Huquq* offices will occur on a rolling basis as CSO partners begin work in each district, which will be four districts this fall. In districts where CSOs are not working, *Huquq* staff can begin leading formal-informal justice linkage activities when and if the role is made part of their SoWs and they are trained.

Expected Results:

A strengthened *Huquq* working directly with the traditional justice sector will create bridges between the formal and informal justice sectors. With improved training and resources, ADALAT expects that *Huquq* professional staff will gradually rise in usefulness and stature among other officials, informal dispute resolvers, and the public. Competent, effective *Huquq* engagement with TDR providers and the public will build confidence in the institution, thereby making sustainable cooperation more likely.

Timeline – 3rd and 4th Quarters

Performance Indicators: 2.1 Percentage of *Huquq* users who are satisfied with the services provided, 2.3.1 Number of TDR decisions registered and recorded by the *Huquq* in USG-supported districts and 1.1.2 Number of legal professionals and non-state justice actors trained with USG assistance

Output 2.4 Improve traditional justice decision making through training and consultative interventions

Baseline and Needs Assessment

Challenges to access to quality traditional and formal justice continue to exist in many areas of Afghanistan, especially in areas outside of previous access to justice or rights-based programming. That said, traditional dispute resolution is widely familiar and trusted in Afghanistan, as it effectively serves the primary cultural objective of reconciling disputants and maintaining community harmony. Even formal justice actors, recognizing the essential reconciliatory function of TDR and the limitations of their own institutions – including physical reach to many rural communities – continue to rely heavily on the traditional justice system, referring many cases to TDR. In the process of reconciling disputants, however, specific illegal practices, such as *baad* (the practice of resolving a dispute by giving a girl from the offender's family in marriage to a male member of the victim's family), and faulty property/land dispute decisions can violate individual rights, causing harm and exacerbating or re-instigating disputes. TDR actors are also vulnerable to manipulation by powerful individuals (as are formal justice actors) and lack the coercive power to separate intransigent disputants.

In responding to these challenges, Checchi's extensive research and three iterations of implementation, evaluation, and refinement under RLS-I produced a highly relevant and targeted program model. From overall objectives, to strategy, to individual activity detail, the model empowered participants to mitigate the negative elements of TDR while fostering mutually beneficial collaboration between the formal and informal justice sectors. The RLS-I model consisted of complementary legal education and collective solutions-based components that proved effective at improving TDR decision making, bolstering formal-informal justice collaboration, and enhancing access to quality justice in Afghanistan.

Passage of the draft Conciliation, or Jirga Law, currently under consideration and its harmonization with Law on Obtaining Rights (*Huquq Law*) could further promote and formalize formal-informal justice collaboration.

Instrumental to the success of the RLS-I program were our CSO partners, including TLO, which added value to the intervention model by suggesting ways to strengthen existing elements and incorporate new modules. Like many Afghan CSOs, however, these partners suffered from weaknesses in aspects of their expertise and operations that affected program implementation, including technical methodologies such as training for less educated adults, and programmatic and administrative management. Recognizing that strong organizations and local initiative are the cornerstones of long-term sustainability, RLS-I supported our Afghan partners as they continued to evolve into effective entities providing vital services to their communities.

To conclude, ongoing legal education and solutions-based programming is required to continue to mitigate harmful components of traditional justice. At the same time, access to quality justice in all case types would be better served by programming that enhances understanding and value-added cooperation between formal and informal justice actors. To

ensure Afghan ownership and sustainability, CSO partners guided by expert mentoring and oversight are best positioned to provide that programming.

Proposed Activities

Deliverable 2.4.1:

Activity 2.4.1.1 Checchi support to TLO

A cornerstone of the ADALAT approach is sustainability. We envision that by the end of the project, our Afghan CSO partners will be well versed and self-sufficient in improving and reforming the informal justice sector. Therefore, CSOs will take the lead role in implementing customized and enhanced versions of the RLS-I model, now documented in *Afghanistan Justice Engagement Model (JEM)*⁴ and referred to as the same. Afghan CSOs will implement all program activities while expert Checchi personnel, university faculty, and select justice officials who previously led the design, implementation, and refinement of successful RLS-I activities will provide ongoing technical support and mentoring to the local partner CSOs.

With the goal of establishing TLO as “master trainer” of other CSO partners, Checchi (and the other experts identified above) will closely mentor and monitor TLO staff in its direct implementation of the JEM model. This hands-on activity will benefit local communities while serving as an experiential learning tool for future TLO trainers. In Year One, TLO senior management and eight male and female field staff will gain expert knowledge of JEM, its content, and methodologies by implementing over 150 activities in four districts in Nangarhar, Kunar, and Khost provinces for up to 1,000 participants, both male and female. Prior to field work, Checchi and TLO will complete an intensive review of the JEM model, including its structure, activity types, materials, agendas, etc., incorporating new ideas and recommendations from the RLS-I final technical and evaluation reports. The process will further enhance the model and ensure mutual understanding and ownership of its approaches and activities. As examples, TLO will have the opportunity to suggest improvements to the participant selection criteria to ensure achievement of critical mass, a cornerstone of the intervention strategy, or add a workshop on the draft Conciliation/Jirga Law, should it be passed into law. To promote better understanding and acceptance of Afghan statutory law and women’s rights, special attention will be given to demonstrating congruence between Sharia, the Afghan Civil Code, EAW, and other laws with parallel citations throughout *Introduction to Basic Rights*, JEM’s book of legal education materials. Like RLS-I, TLO will be strongly encouraged to aim for gender staffing and participant parity.

⁴ The document details the JEM, referencing all related materials and tools. Given the embedded nature of traditional justice in local culture, JEM improves access to quality justice by transforming that culture – justice providers, leaders, and the broader public – to greater awareness of and respect for human and other rights. It does this through targeted legal education workshops delivered by respected sources to a critical mass of influential elders, women, and officials throughout each area of intervention. JEM also includes discussion forums for these stakeholders to create and commit to solutions to harmful practice and other challenges, and promotes value-added collaboration between formal and informal justice actors to bolster mutual support and accountability.

These consultative processes, like the district assessment process, illustrate the flexibility of the RLS-I model in ensuring overall and local relevance.

ADALAT, in collaboration with USIP, will support TLO in its education and advocacy work for passage of the Jirga Law.

Expected Results:

A strengthened TLO providing expert direct program implementation for the improvement/reform of the traditional justice sector and creating bridges between the formal and informal justice sectors, with special attention to gender considerations. TLO's capacity to train, mentor, and oversee other CSO grantees (beginning in the first quarter of Year 2) meets or nears "master-trainer" standards.

Timeline:

- RLS-I model/materials review- 2nd Quarter
- TOT and facilitation trainings for TLO trainers and staff – 2nd and 3rd Quarter
- TLO begins direct implementation under Checchi's mentorship and monitoring – 3rd Quarter
- Checchi supports TLO on Jirga Law - throughout work plan period

Performance Indicators: 2.2 Index of public perceptions - percentage of citizens in ADALAT districts who agree that village *jirgas/shuras* are fair and trusted AND effective, and 1.1.2 Number of legal professionals and non-state justice actors trained with USG assistance

Activity 2.4.1.2 TLO/Checchi support to CSO grantees

Like TLO's direct programming, ADALAT's TDR grant program incorporates the extensive experience and lessons learned from implementing the RLS-I/JEM model. Through this approach, local implementers will have a proven model that has been successfully piloted, implemented, and evaluated, and, by design, can be further refined and adapted based on partner CSO expertise and local needs and circumstances.

Checchi and TLO will collaborate to identify 10-20 civil society organizations working in the justice sector using past lists, consulting other justice CSOs and government institutions, USAID, and other donors. ADALAT will also issue a solicitation, in the form of an RFA, to attract newer or unknown justice-related CSOs from throughout the country. Special efforts will be made to ensure participation of CSOs working on gender equality and access to justice. As part of its normal grant making process, Checchi will train 20-50 interested CSO staff on how to prepare applications for grants from ADALAT. The training will be carried out by ADALAT's Subcontracts, Grants and Compliance Manager as part of the pre-RFA process described in the ADALAT grants manual. Shortly thereafter, Checchi will solicit grant proposals, review applications (incorporating gender-sensitive review criteria, which will consider each organization's past performance on gender issues; gender balance in the organization's senior positions; internal gender policies, etc.), and select at least two grantees during the first year. When grants are awarded, TLO, with close support and

observation of experienced Checchi staff, will begin to consult and train 10-20 grantee staff on all aspects of the JEM and its implementation. TLO will pass down what it has learned from Checchi's partnership and mentoring during directed implementation – from collective assessments of the overarching challenge, to formulation of realistic objectives, to strategy development, to intervention model frameworks and components, to individual activities and agendas. Again, the process will encourage incorporation of CSO partner ideas and critiques. Particular attention will be given to: training of trainers, including female trainers, so that they will be able to: effectively use JEM's training material, *Introduction to Basic Rights*, which incorporates extensive material on women's rights; tailor materials to the literacy levels of the participants; and incorporate topics that promote respect for women, women's access to justice, and women as dispute resolvers. TLO will also pass down what it learned collaborating with Checchi's M&E team in supporting grantees in monitoring the results of their trainings.

In addition to proposal quality and performance on justice and gender issues, CSO regional expertise will be considered in selecting CSO partners. Partners with expertise and existing resources in geographical areas of known justice assistance need may be given priority. Areas of need will be determined using JEM's district selection criteria, which include: security accessibility; need (the degree of rights violations, corruption, and other negative practice in dispute resolution and generally); public demand for assistance; the opportunity to work with women; and other factors. Like TLO, CSO partners will be required to complete brief assessments of these factors in proposing districts or provinces in which to work.

Expected Results:

CSOs understand grant writing and are able to apply for grants. Selected CSOs understand and make contributions to the JEM program model. In subsequent work plan periods: partner CSOs see improved capacity to successfully implement the JEM model, improving the informal justice sector and building bridges between formal and informal justice systems, thereby raising overall access to quality local justice.

Timeline:

- Grant application training to TLO and other CSOs - 3rd Quarter
- Grant applications solicited – 4th Quarter
- Applications reviewed – 4th Quarter
- Grants awarded – 4th Quarter
- TLO consultation and mentorship of CSOs begins - 4th Quarter

Performance Indicators: 2.2 Index of public perceptions - percentage of citizens in ADALAT districts who agree that village *jirgas/shuras* are fair and trusted and effective and 2.4.2 Percentage of CSO partners' milestones achieved on time

Sub-Purpose 3 Increased Citizen Demand for Quality Legal Services

Output 3.1 Citizens' legal rights education and advocacy

Baseline and Needs Assessment

Citizen ownership of the justice system is a key objective of USAID's rule of law programming, and to achieve it ADALAT will empower Afghan civil society to build public confidence in government and counter negative public perceptions that justice is slow, costly and ineffective. The majority of Afghan citizens are unaware or skeptical of the justice sector, its normative framework, and its component institutions. Without a clear vision of what justice systems offer, Afghans cannot appreciate the fundamental rights they have under their own Constitution. In recent Afghan history, local traditions, culture and social norms are hampering Afghan women from accessing their legal rights, such as to property ownership and land use. Civil society' legal advocacy can enhance citizens', and especially women's, awareness and access to their legal rights, from an Islamic perspective.

The absence of professional women lawyers and judges in rural areas is another key challenge which hinders Afghan women's access justice. There are claims that the Afghan judiciary is usually working in favor of men, which is a main obstacle discrediting the Afghan justice system. To some extent this challenge has been addressed in terms of increased training and hiring of Afghan women as legal experts and as employees of the Afghan judicial establishment in urban areas, but this does not meet Afghanistan's need. And there is no real evidence that the issue is taken seriously by the authorities.

Poor communication and coordination between Afghan state institutions is another challenge which inhibits these actors in conveying a consistent message regarding legal rights to the local population. AIHRC, MoI, Ministry of Women Affairs, AIBA, and CSOs are working in legal awareness issues but they are duplicating each other's efforts. And civil society organizations have significantly expanded their capacity to effect meaningful change and advocate for reforms to Afghanistan's justice sector institutions. Millions of copies of brochures, posters and other print materials have educated Afghans on their legal rights, and more citizens than ever before have access to these messages through radio, television, and the internet. Legal awareness programming reaches much of the country's citizens, yet the most vulnerable populations residing in the most remote areas may still remain unaware of their legal rights. Low levels of knowledge persist among women, who stand to benefit the most from access to information about the constitutional prohibition of discrimination. Legal prohibition of exploitation of children, through forced marriage, labor, and trafficking, are only effective when families, many of whom are responsible for the violations, recognize the harm. ADALAT will facilitate coordination among state and civil society entities to follow the MOJ's legal awareness strategy to convey consistent message to the target citizens in their area of operation.

As access to professional and trustworthy legal services increases and meaningful data about court performance becomes available, civil society will have an even greater opportunity to influence public perception of the formal legal system. People's confidence in the justice system grows with their understanding and ownership of the services it provides.

Open and transparent processes in the courts and in the *Huquq* keep justice services offered through the state accountable to the public. Greater publication of judicial decisions and more citizen monitors of court and *Huquq* proceedings will further widen avenues of accessibility. These institutions provide an entry point into the formal system for Afghans, and independent observers from among members of the communities they serve can help to ensure that those institutions function properly. ADALAT will support initiatives to enhance the transparency and accountability of formal and traditional justice sector institutions to the increasingly-knowledgeable public they serve, while taking care to target areas where measurable improvements have occurred and where security threats are not likely to undermine them. The project will focus on purposeful interventions with perceptible, positive, and sustainable impacts on the legal awareness of the communities where they are directed.

Program support will be primarily determined through an open and transparent application process after a broad solicitation from local NGOs. As other donors are actively funding these organizations, ADALAT will seek to coordinate with the US Embassy, INL, World Bank, UNDP, EU, GIZ, and others to maximize the impact and effectiveness of its outreach and advocacy grants.

Proposed Activities

Activity 3.1.1: Legal Outreach and Awareness Grants

As traditional outreach methods reach a saturation point, the ADALAT grants program will promote outreach designed to impact remote communities with low literacy levels and little familiarity with formal justice and legal rights. At the beginning of the third quarter there will be an open call to Afghan organizations to apply for a grant to fund outreach programs intended to raise awareness among Afghans of the law and the potential benefits of the legal system for them. A RFA clearly explaining the grant purpose will be prepared and widely disseminated so that interested organizations engaged in relevant work will know about the opportunity. Applications will be received and evaluated by the end of the third quarter, so that awards are made before the end of Year One.

Outreach, advocacy and monitoring activities will be carried out under ADALAT's grant program, which over the life of the project will offer funding and technical support to local organizations to raise awareness of legal rights among semi-literate and illiterate Afghans in rural and low-income communities. Many who cannot be reached through written text also do not have electricity, televisions, or radios to easily receive audio and visual messages disseminated via these relatively modern technologies. How grantee candidates propose to overcome the geographical and educational barriers to communicating information and generating lasting awareness in rural peoples will distinguish their applications. For advocacy and monitoring activities, the grantees' capacities to include and mobilize disenfranchised members of more marginalized communities will be positively considered, such as involving women in media campaigns, vision and mobility-impaired persons in trial observations, and representatives of persecuted minority groups in organized national dialogues on non-discrimination.

Civil society organizations, among other entities, will be eligible for awards. Grant partners will have considerable flexibility in implementation, with ADALAT support throughout and quarterly monitoring. ADALAT will use a combination of annual program statements (APS)

for supporting broad and creative responses to program objectives and requests for applications (RFA) for more targeted support. We expect to advertise the initial APS/RFA in Quarter 3 of Year One so that awards can be delivered by Quarter 4. In addition, ADALAT will designate a flexible funding pool for windows of opportunity which arise during implementation.

Interactive and ongoing direct impact activities may be supported in coordination with other donors, such as Women for Afghan Women's (WAW) Community Trainings, which have taught hundreds of thousands of people in rural areas about legal issues around GBV, family violence, and traditional harmful practices antithetical to gender equality, including *baad* and child marriage. At the same time, WAW and other organizations wishing to reach people through activities outside of their current programming capacity, such as WAW's interest in producing films, may receive awards and technical support to expand their scope of work.⁵

Efforts to involve respected religious figures and formal sector actors, including judges, prosecutors, and elders, in community outreach may help to personalize, or humanize the legal principles that villagers may be hearing for the first time, or never internalized following other outreach attempts. Grantees may team up with CSOs doing other outreach, collaborating to include legal knowledge on relevant issues in their programs and activities, supporting greater knowledge of and access to health, education, and livelihoods. Funding can support remote villages managing a graphic and interactive legal awareness materials library or mobile repository. Special screening events of powerful films delivering messages that resonate with rural populations may be offered to people wishing to participate in a communal event and organized follow-up discussion.

CSOs may receive grants to (1) work with media outlets to identify spokespersons and influential male and female leaders to voice targeted public service announcements on pressing justice issues, (2) use information technology, particularly social media, SMS, and YouTube to disseminate legal awareness messaging and network with other organizations, (3) utilize music, dance, art, photography, community clean-up and service projects, athletics, and other competitive and recreational tools to engage the interest of village residents, particularly youth, and (4) run street law programs and educational public service announcements targeted to youth. The grantees will be asked to demonstrate their understanding of gender dynamics and utilize creative approaches to address this issue.

Radio talk shows and discussion tables which include women in decision-making positions will not only provide role models for young women who may be interested in a career in the justice sector, but will also show women considering bringing their claims to court, that female judges, lawyers and prosecutors exist. Furthermore, outreach messages that feature resolutions on issues such as GBV, divorce or inheritance disputes which were decided in a woman's favor may encourage other women to seek justice through the formal system.

⁵ WAW's community trainings and referrals lead to the organization taking on roughly fifty new cases monthly, as people receive information about their rights and are connected to WAW dispute resolution and legal services. They support most clients in the TDR system for more common civil matters for their timely and less costly resolution, while reserving their representation of clients in the formal justice system (about twenty cases per month) for more serious and criminal issues.

Grantees outreach activities may draw attention to developments in justice sector reforms and the degree of respect afforded to rule of law principles, for example, the work of journalists investigating or monitoring human rights cases, tracking the degree of enforcement of newly-enacted laws, and news reports on changes to statutes and regulatory policies on matters related to legal rights (e.g. actions against state authorities, personal and property rights in the face of police investigation). ADALAT will welcome proposals from media organizations seeking funding for activities that will increase citizens' awareness of legal rights.

ADALAT's legal outreach and advocacy leader began meeting with CSOs in the second quarter and will continue into the 3rd Quarter to gather information about the needs and interests of local civil society. Using existing networks and resources, the sub-purpose leader will prepare a comprehensive list of relevant CSOs in the country, to include the name, mission, date of establishment, registration status, thematic areas, current projects, funders, and contact details.

The leader will team up with the ADALAT Grants Manager to announce and conduct a pre-bid qualification for the grants in mid-3rd Quarter to identify up to twenty relevant and capable CSOs for this grant to avoid wasting time screening of hundreds of CSOs at a later stage. ADALAT will prepare a written pre-bid qualification based on the statement of work of each grant type and announce them for seven to fifteen days on the ACBAR website. Then ADALAT will start its screening and selection process of qualified CSOs through reviewing the CSOs' relevant documents and conducting a direct physical assessment of CSOs applying to ADALAT grants (i.e. CSOs will send their full proposals).

The team will also organize one pre-bid information session in Kabul to give CSOs to a clear understanding of the grant application and implementation processes and distribute relevant materials from the session to CSOs based in other provinces. Formal guidelines for the grants which be developed and distributed at these sessions, to include a simple explanation of grant components and best practices for preparing good proposals. An international grants management consultant will work with the team in the 3rd Quarter to draft the RFAs and APSs for the first awards cycle and to finalize the ADALAT grants manual.

Expected Results: Greater legal awareness as outreach activities reach populations in the more rural and remote areas, educating largely illiterate Afghans on fundamental rights principles through visual, auditory, interactive, and stimulating ways that resonate with them, including through creative approaches that have not previously been tried.

Timeline: 3rd – 4th Quarters

Performance Indicators: 1.1.2 Number of legal professionals and non-state justice actors trained with USG assistance

Activity 3.1.2: Legal Advocacy RFAs and Grants

Grant funding for advocacy activities will provide civil society and activist communities with the means to mobilize better-educated citizens and develop initiatives for pursuing greater recognition and respect for legal rights, by lobbying government bodies, supporting media campaigns, and otherwise empowering citizens to secure their rights. ADALAT advocacy

grants will support projects that address problems of particular interest to the communities where they will be carried out – preferably based on assessments or other demonstrated familiarity that applicants have with localized issues.

Understanding that the letter of Afghan law far better reflects the principles of fairness and equity than the reality of its application, grant-funded advocacy campaigns should strive to advance practical solutions to bridge that gap, and also work in areas where policy can be improved to better safeguard the rule of law. Common legal rights issues may relate to, inter alia, gender discrimination in employment and education, GBV, family violence, child marriage, institutionalized sexual abuse, human trafficking, fair trials, humane detention, and access to basic utilities and public services (such as water, electricity, and transportation infrastructure). Organizations with the capacity to conduct research, collect and use data, empower and mobilize citizens, build networks, influence policymakers, and effect change through innovative methods will be encouraged to apply for an ADALAT grant. Grassroots advocacy campaigns built around livelihood issues that affect a community's ability to exist are likely to generate high levels of interest and commitment by citizen stakeholders. The Women and Children Legal Research Foundation (WCLRF) has been raising awareness on GBV and on women's and children's rights since 2003 across Afghanistan. Their most recent research on sexual harassment may require support for advocacy campaigns to combat this practice.

As with the approach with outreach grants, the ADALAT legal outreach and advocacy leader will consult closely with advocacy CSOs to conduct a rapid civil society assessment, using an organization development checklist in the 3rd Quarter. Following the award of grants, ADALAT will assist grantees to apply organizational development tools to make an action plan for addressing their weak areas. To maximize limited financial and human resources and avoid duplication, ADALAT will coordinate with other donors on further CSO capacity-building initiatives. In the 4th Quarter ADALAT will develop an Advocacy Manual and training program to conduct ToT for key grantee personnel, to begin in Year 2 following the start-up of grant projects, so that they may subsequently train their entire staff. Additional civil society capacity and advocacy skills training may be offered by ADALAT as requested by grantees. When grantees seek to influence the legislative agenda and address reforms to national-level political processes affecting legal rights, ADALAT may provide coordination assistance and facilitate advocacy workshops and opportunities for advocates to share best practices. ADALAT will select grantees for creative and localized legal rights advocacy activities to begin as soon as the 4th Quarter of Year One, and visit grantees' offices on an ad hoc basis to provide technical assistance based on their proposed needs over the life of the project, and in anticipation of the next grant solicitation.

Expected Results: More citizens empowered to advocate for recognition and protection of their legal rights.

Timeline: 3rd – 4th Quarters

Performance Indicators: 1.1.2 Number of legal professionals and non-state justice actors trained with USG assistance and 3.1.2 Number of CSOs receiving USG assistance engaged in advocacy

Activity 3.1.3: Courtroom and *Huquq* Monitoring RFAs and Grants

In the third quarter of Year One, ADALAT will solicit applications from Afghan CSOs to monitor courtroom and *Huquq* activity. Community monitors will receive ADALAT grants to observe court and the *Huquq* operations in districts where oversight is minimal and monitors, such as those involved in Integrity Watch Afghanistan's (IWA) ongoing program, are not already active. A grant-funded monitoring activity will bring communities into closer contact with formal justice processes, will promote transparency of justice institution operations, and may help fill a gap in oversight from management authorities. Citizen oversight of formal legal institutions will increase general knowledge of court procedure and performance, and lead to actionable recommendations on improving court and *Huquq* services.

Grants will be offered to CSOs to model their monitoring activity on that currently carried out by IWA in courts in several provinces. IWA identifies key champions and works with them to train volunteers to monitor trials. With a basic understanding of court procedure and due process, these community monitors go into district courts, two for each observation, and, armed with a checklist⁶, track how certain features of the proceedings transpire. The findings are collected, processed, and reported on a monthly basis to provincial chief judges, who may take corrective action for observed problems, such as judge absenteeism. Under ADALAT's grant program, this same model will be used in district level courts and extended to *Huquqs*. Grantees will benefit from IWA materials to help them develop their own monitoring programs. They will also solicit input from provincial high court judges and *Huquq* officials to understand their priorities and concerns for improving the services offered at courts and *Huquqs* of first instance of formal justice institutions. The monitoring program, adapted from IWA's, should be active before the end of the fourth quarter of Year One.

ADALAT will provide some oversight of the monitoring activities and outline grant conditions, such as a requirement that a portion of monitored cases be of divorce, child custody or property rights – in other words, cases that will likely have a female defendant. Volunteer monitors will represent, to the extent possible, the community where the court and *Huquq* are located. Considering that the courtroom and *Huquq* environment is male-dominated, the presence of a female volunteer monitor may have a positive effect on a female defendant. ADALAT will inform the SC and MOJ about monitoring activities that will take place, and grantees will have to notify provincial chief judges and *Huquq* officials of their activities at the district-level institutions and obtain their approval for the monitoring before proceeding. As needed, ADALAT will assist grantees to build a relationship with courts and *Huquq* to facilitate their access to proceedings and maximize their ability to influence institutional authorities. Recommendations on improving justice services based on observed problems may be included in bench books produced by the SC or MOJ, in conjunction with Sub-purpose 1 activities.

⁶IWA's checklist and samples from other successful monitoring programs will serve as a basis for grantee's own metric. Monitors may measure and track how proceedings are experienced and conducted on the basis of observable factors, such as: the physical condition of the facilities; the attentiveness of security personnel; the visibility of signage, schedules, and notice postings; the presence of a judge or key *Huquq* official; whether and how judges, prosecutors, defense counsel, and other formal actors addressed each other; the content of statements by a judge related to parties' and witnesses' procedural rights (e.g. the right to information – clearly informing defendants of their charge, or civil parties of points of fact in dispute); the treatment of defendants and witnesses disaggregated by gender, age, and ability; etc.

It is expected that by early 4th Quarter of Year One, grantees will be selected, and by the end of that quarter they will have designed their programs, trained community monitors, and begun implementation of their actual monitoring activity. After awarding the grants, ADALAT will conduct quarterly evaluations of their progress. Grants will be awarded to projects which can be completed within twelve-months.

Expected Results: Grants awarded for monitoring activities so that justice institution performance is recorded and recommendations are delivered to provincial level leadership for evaluation and improved performance management practices by Year 2. Greater transparency of court and *Huquq* performance. Civil society monitoring organizations increase their capacity to engage constructively with justice institutions.

Timeline: 3rd – 4th Quarters

Performance Indicators: 3.1.1 Number of CSOs who are monitoring courts' performance with USG assistance

Output 3.2 Improvement in quality and access to legal education

Baseline and Needs Assessment

Since issuing the original solicitation, USAID's focus has shifted to expand ADALAT's grant program beyond legal education for the Afghan public, to educating legal professionals. The needs assessment revealed that the professionalization of law graduates benefits justice sector institutions and bolsters access to justice. With greater awareness will come greater demand for legal services, demand which already exceeds the supply offered by the MOJ's Legal Aid Department and a number of independent legal aid providers.

University clinical programs, offer law students the chance to work directly with clients, under the supervision of experienced practitioners. Clinical legal education provides an opportunity for law students to step out of the theoretical bubble that surrounds most of their academic experience and engage directly with real world cases. Allowing and encouraging students to work with practitioners enriches their time in university by broadening their exposure to the types of problems that make up many lawyers' professional workload, serving clients whose cases reflect their community's legal needs. ADALAT will explore opportunities to support programs serving indigent and vulnerable populations, offering grants to private universities and legal aid organizations that will provide clinical services through an intensive education/application model, such as The Asia Foundation's Legal Aid and Legal Education (LALE) program. The quality of legal services for citizens entering the formal justice system as criminal defendants or civil litigants will improve with better-educated legal professionals. Legal clinics run out of universities can provide direct benefits to people in need of information and representation.

An overall reimagining of the curricular systems offering law degrees will serve future practitioners, and increasing the professional readiness of graduates requires commitment from institutions that educate and employ them. Currently a large number of law students graduate every year and struggle in a highly competitive marketplace for the few law jobs available (often offered on criteria unrelated to merit). Finding a job is a particular challenge

for female law graduates, already limited by cultural and social constraints on their ability to reside near campus, attend evening classes, and travel for academic competitions and study trips.

Lawyers in the early stages of their careers are required by law to participate in a lengthy and costly *Stage* to obtain licenses to practice, or to become a prosecutor or judge. These programs are undergoing reform to become more streamlined, rather than merely rehashing course material from undergraduate law degree programs. Improving academic programming in universities is a logical part of the overarching process of strengthening avenues of career preparedness, raising the bar for the next level of professional development for lawyers. Opportunities to coordinate education and professional training reform initiatives across ADALAT Sup-purposes will be explored.

In spite of MoHE efforts to streamline measures meant to produce higher quality professional degree programs across the board, resource constraints and internal resistance have limited their impact, particularly in public universities. ADALAT's initial interventions in legal education reform will look to the private university system, where these newer faculties are more likely than their public counterparts to embrace progressive reforms. Private universities are new in Afghanistan, and have sprung up to fulfill a need for more and better higher education options. Reform initiatives taken at the ministerial level may be improving the quality of Afghan legal education, but the effect has not been consistent across institution, either public or private, and the greatest driver of change will likely come from coordinated and competitive efforts of individual institutions to attract and produce excellent candidates for the legal profession.

The Private University Association (PUA) is a coordinating body which brings together representatives from the over one hundred private universities in Afghanistan to share information and discuss their interests as institutions seeking to offer a good educational experience to students throughout the country. Over eighty private law degree programs certify students in this popular discipline, and leading private universities are committed to improving their programs to remain competitive with the public system. To take advantage of the efficiencies of working with more flexible and enterprising partners, ADALAT will support select private universities with the greatest potential for improving their programs. Participating faculties will be identified through the PUA.

Two crucial failings of most Afghan law faculties are a lack of student-centered teaching methodologies and little to no practical skills training. ADALAT will aid private universities wishing to revise their curricular offerings and law teaching methods. AUAF's law degree requires foundational courses in legal methods designed to teach critical skills, including legal reasoning, research, and writing. The clinical education elective allows advanced students to engage in real world practice in areas such as trial advocacy, women and children's rights, client counseling, and criminal defense. The focus of ADALAT support will be on training private university professors to teach a core practical legal education curriculum using interactive and student-centered methods.

Proposed Activities

Activity 3.2.1 Legal Clinical Education Grants

The Asia Foundation (TAF) has commenced its Legal Aid and Legal Education (LALE) program precisely to help bridge the gap between legal education and legal services, and ADALAT will invite PUA members to apply for a grant to participate in the program. LALE has been launched in six provinces, and currently only serves the major public university in each, with a three-part focus on (1) pre-clinic and legal writing supplementary courses for a select group of no more than twenty students, (2) placing students who have been through the pre-clinic preparation course in local clinics run with the support of partner NGOs, and (3) post-graduate fellowships allowing law graduates to work full time in clinics.

ADALAT will support the expansion of LALE to involve faculty and students from private law degree programs in the areas where it is currently being actively piloted, that is Kabul, Kandahar, Nangarhar, Balkh, Herat, and Bamyan. The grant will cover the costs of (1) training select faculty members in the clinical education curriculum, (2) teaching and materials for the clinical course at participating universities, and (3) student assignments to local legal aid clinics run by TAF's partner NGOs for legal service delivery.

In the 3rd Quarter of Year One, ADALAT will solicit proposals and award grant funding to universities willing to partner with legal aid providers, which, like those involved in LALE, are willing to support student participation in clinics for indigent and vulnerable citizens. ADALAT will work with TAF to give the opportunity to private universities to have professors participate in the LALE training sessions on how to teach courses in legal reasoning and writing. ADALAT will support the participation of up to twenty private university law lecturers in the second session of the LALE faculty training program to begin in December 2016. Trained professors will offer supplementary courses in legal writing and legal clinical assistance to a small group of students. Participating students who complete the legal clinical practice course will have the opportunity to put their knowledge to use with cooperating legal aid providers. Grant proposals must include a community and client needs assessment summary, demonstrating that the applicants have studied the local context and have some understanding of what issues most affect indigent and otherwise vulnerable citizens seeking advice and assistance.

Related referral networks, clinicians' networks, and other forms of promoting student-practitioner interaction for exposure to real-world law problems may be supported. How far ADALAT will fund and provide technical assistance for these complementary initiatives will rely on the capacity of interested institutions to manage and sustain them, and will be further explored in later program years.

Expected Results: Law students at private universities are provided with practical skills and experience in their degree program while communities have access to a wider variety of law services.

Timeframe: 3rd – 4th Quarter

Performance indicators: 3.2.1 Number of private law schools offering any part of the revised curriculum with ADALAT grant support (includes legal writing, clinical education, and code of conduct)

Activity 3.2.2: Law Degree Development Program for Private Universities

In the 3rd and 4th Quarters of Year One, the ADALAT legal education sub-purpose leader will work directly with law faculty from up to ten top private universities from around the country to design a program to strengthen their law degree programs and improve their teaching methods. In order to assist the curriculum and pedagogical reform that several of these private university law departments seek to be more effective and competitive, ADALAT will facilitate the participation of a select group of institutions in the intensive Law Degree Development Program. ADALAT will design the Law Degree Development Program with the aid of an international legal education specialist, in close consultation with private universities, coordinating with donors and other organizations working with law schools, and communicating regularly with the MoHE.

Program preparation will begin with the qualification and assessment of participating institutions in the 3rd Quarter, followed in the 4th Quarter by the drafting of the program's agenda, a model curriculum tool, and other materials. In the 3rd Quarter, ADALAT will identify and enter into agreements with a select group of up to ten private university law departments to receive direct support for training faculty and administrators in implementing key features of an improved law curriculum model. ADALAT will work with the PUA⁷ to circulate a request that all law faculties interested in legal education grant funding first provide information about their (1) student count disaggregated by sex; 2) graduation rates disaggregated by sex (3) faculty count disaggregated by sex, (4) policy for faculty hiring, and (5) curriculum. Institutions deemed eligible on the basis of having sufficient enrollment, personnel practices, and basic standards for academic quality will be invited, via an RFA, to apply for grant funding to participate in ADALAT's law degree curriculum development and teaching program described in Activity 3.2.1. As a condition of their participation in ADALAT-funded programs, faculties must commit to develop an oversight mechanism to regulate adherence to MoHE standards for fair hiring practices of professors, rules against nepotism and preferential hiring, merit-based promotions, and position announcement guidelines. A set threshold for representation of women among the participating faculty must be met as well. By the end of Year One, ADALAT will have awarded grant funding to select private universities to adopt and adapt AUAF's academic program model to their law degree programs.

PUA member universities will have the option of a program development grant for their legal education faculty. The ADALAT grant will cover the cost of (1) sending up to five participating faculty members to Kabul, including travel, accommodation, meals, and stipend; and (2) an implementation plan for curriculum and degree program reform initiatives at the university including (a) workshops for information sharing between faculty who participate in the Law Degree Development Program and other law professors in their home university department, (b) course materials for upgraded curriculum, and (c) technical assistance.

Participating universities may require additional assistance in light of their respective circumstances (e.g. management capacity, material resources, language level, university culture, higher social barriers to female mobility and access) to effectively plan to update their degree program curriculum.

⁷ The Private University Association (PUA) convenes 14 representatives of Afghanistan's over 80 private universities in a forum for sharing information and collaborating to advocate for favorable policies.

ADALAT will plan for intensive workshops and seminars for participants to engage in curriculum development and pedagogical skills training during school break periods, to begin in Year 2. ADALAT's legal education team will work with stakeholder entities and experts to devise the intensive training program, which will prepare professors to teach the contents of a revised core undergraduate law degree curriculum using interactive, student-focused methodologies, with an emphasis on practical skills building.

The first intensive training session will take place in Kabul during the 2017 summer holiday, while school is out of session in most provinces. In later years, the training program may be developed to reach a larger number of faculty participants for first time, follow-up and advanced instruction, and through evening and weekend courses, or distance learning. In order to ensure that both male and female faculty members are participating in these sessions, ADALAT will take into account any additional costs that may be required for women's travel or accommodations.

Expected Results: Select private universities receive grants to develop curriculum reform and pedagogical training program in ADALAT's Law Degree Development Program.

Timeline: 3rd – 4th Quarters

Performance indicators: 3.2. 1Number of private law schools offering any part of the revised curriculum with ADALAT grant support (includes legal writing, clinical education, and code of conduct)

Annex A - Gender Analysis

Executive Summary

The analysis of women's participation in and access to the Afghan justice sector found challenges and obstacles, and identified opportunities upon which ADALAT can act over the next three years.

In the formal sector, women are underrepresented as judges, lawyers, prosecutors, and law and Sharia lecturers and students. The challenges they face are similar to challenges women face in other sectors – traditional gender norms curtailing access to education, freedom of movement, employment, access to resources, and generally meaningful contributions to the society. Similarly, women are hesitant to avail themselves of the services of the courts because they are distrustful of them; don't understand how the process works; can't reach them due to limited mobility; and due to the scarcity of female legal professionals, they have to deal with predominantly male judges and lawyers.

Women seek dispute resolution more frequently through informal justice systems which are more convenient and more accepted at the community level. These channels, by and large administered by men, often discriminate against women with punitive judgements. As a result, in most cases women's disputes remain contained within their families.

ADALAT can address some of these obstacles by mainstreaming gender through partner institutions; by building capacity of women in the justice sector, from students and judges to *spinarsi*⁸ group members; and by enabling CSOs to use their creativity and local experience to promote legal education and awareness raising on topics including women's rights, harmful traditional practices, gender based violence and sexual harassment.

Purpose of ADALAT Gender Analysis

The purpose of this gender analysis is to guide the development of ADALAT work plan. Per the guidance set out in ADS 205, it aims to assess differences in women and men's access to resources, opportunities and services in the justice sector; to examine the influence of gender roles and norms on leadership roles and decision-making; identify constraints, opportunities, and entry points for narrowing gender gaps and empowering women in the sector; and analyze potential differential impacts of development policies and programs on males and females, including unintended or negative consequences.

Methodology

This gender analysis is based only on desk document review, and does not contain any information obtained via key informant interviews or focus group discussions. As such, it is

⁸ Female *spinarsi* groups are comprised of female elders who are members of female *jirgas* or *shuras*. *Spinarsi* means "white hair".

not a comprehensive justice sector gender analysis, but is primarily focused on two gender dimensions, with particular emphasis on the status of women, relevant to ADALAT's scope of work and objectives. These two dimensions - 1) Representation, leadership and decision-making, and 2) Access to justice - cut across both formal and informal justice systems. The focus of key informant interviews can be on issues where there is still somewhat of a gap – for example, different Sharia curriculum for men and women, perhaps a few interviews with women in TDR or lawyers. This is the type of stuff that the local gender specialist can easily do. The findings can be then written up in a couple of pages as an “Addendum to ADALAT gender analysis.”

A key outcome of this gender analysis is ADALAT Gender Action Plan (GAP), presented in Annex B. The Year 2 GAP will be created in concert with Year 2 ADALAT Work Plan, and it will be based both on recommendations of this gender analysis which are not being implemented during Year One, as well as on the outcomes of ADALAT's work.

Program Description

ADALAT is a 3-year rule of law project (with two one-year option periods), set to advance three main areas:

1. Increased effectiveness and reach of the formal justice sector,
2. Strengthen linkages between the formal and traditional justice sectors, and
3. Increase citizen demand for quality legal services.

The Project will work closely with Afghan justice institutions to increase the professionalism of justice sector actors, to improve judicial administrative and management systems, and to strengthen the Ministry of Justice (MOJ) Department of the *Huquq* and its interaction with traditional justice on civil-related matters. It also will develop the technical, organizational, and management capacity of USAID civil-society partners operating in the formal and traditional justice sectors and will support their missions to eliminate practices that violate human rights in traditional dispute resolution (TDR) within the informal justice sector and to increase citizen awareness of and demand for fair and accessible justice services.

Background

Gender inequality in access to opportunities and resources and in meaningful participation in all sectors in Afghanistan is well documented. Conservative social norms that guide gender roles and relations seriously restrict women's presence and their voice in the economic and political spheres, which is manifested in their absence from the paid labor force and leadership positions in both the public and private sectors. In the justice sector – both formal and informal- there are significant gender gaps both in participation and access.

Representation, leadership and decision-making

“The government recognizes that increasing women's participation in governance and in the administration of justice will strengthen the protection of women's human rights and empower women more generally. The limited space for women's leadership and participation in public life, the endemic abuse of women's rights, and the plethora of

discriminatory provisions in Afghan laws and policies highlight the importance of strengthening women's status in this sector.”⁹

The National Action Plan for the Women of Afghanistan (NAPWA), which was the government's main mechanism for implementing policies and commitments to advance the status of Afghan women, considered women's participation one of the key elements in the reform of the justice system. It proposed affirmative action policies in order to address women's low participation in law-making, administration of justice, and law enforcement bodies.¹⁰ One of the key NAPWA indicators under its “Legal protection and human rights” pillar was a “Minimum 30% increase in participation of women in the justice sector and law enforcement bodies.”¹¹ Similarly, key justice sector documents – National Justice Sector Strategy (NJSS) and the National Justice Program (NJP) set targets of at least 30% for female justice sector staff in law, political science and Sharia faculties. Under the new Justice Sector Reform Plan, which is still in draft form, the new targets of 23% for women have been set for the following activities: enrollment of students in every judiciary stage training (Judiciary power); Allocation and recruitment of prosecutors and administrative staff in the capital and in the provinces (AGO); recruitment of staff with Masters and Bachelor degrees in Kabul and the provinces (MoJ); and the enrolment and support of staff (AIBA).¹² The lowering of targets from 30% to 23% in some of the categories of female professional legal staff is a concern as it erodes the progress already made on this front.

Women in the legal profession

The following legal professions are mentioned here: judges, lawyers, prosecutors, law and Sharia faculty, Ministry of Justice (MOJ) employees, and court administration staff.

a) Judges

In 2013, Afghan women represented only 8.4% of judges.¹³ Information from the 2013 Afghan Women Judges Association (AWJA)¹⁴ annual meeting revealed that due to security problems and social stigma, female judges only worked in five provinces of Afghanistan –

⁹ “National Action Plan for the Women of Afghanistan.” (Kabul: GIRoA, 2007) 35.

¹⁰ Ibid. 42.

¹¹ Ibid. 38.

¹² “Draft Program of Justice and Judicial Reform.” (Kabul: Office of the Second Vice President, September 2015).

¹³ “Women's Professional Participation in Afghanistan's Justice Sector: Challenges and Opportunities.” (Rome: IDLO, 2014) 7.

¹⁴ AWJA is “Afghanistan's premier membership organization for women judges in Afghanistan. The AWJA believes that female judges in Afghanistan, in collaboration with male judges, have a powerful opportunity to advance the rights of citizens- especially women- throughout the country. By providing professional growth opportunities to members and advocating for equal access to justice, the Association believes it can achieve a vision of Afghanistan as a country where everyone's human rights are protected by the rule of law.”

(<http://supremecourt.gov.af/en/page/association-of-women-judges>, accessed 7/7/16.)

Kabul, Balkh, Herat, Takhar and Baghlan.¹⁵ That year, the majority of female judges were in primary and juvenile courts, with 118 out of 370 primary and juvenile courts with female judges on staff (or 32%); additionally six out of 364 district courts were headed by female judges (or 1.6%) and four of the 34 appeal courts.¹⁶ In 2015, President Ghani nominated Anisa Rassouli, the head of the AWJA and a juvenile court judge, to join the Supreme Court's nine-member bench. Afghan lawmakers, however, rejected this nomination,¹⁷ continuing the practice of preventing women from influencing discussions at the justice policy level, which results in decisions being made with an inadvertent male bias. By 2016, the percentage of female judges has increased to 9%.¹⁸

b) Court Administration Staff

Despite the fact that women's presence can have a positive impact or even contribute to a more equitable treatment of women who are involved in court cases,¹⁹ their presence in court administration is lacking. In 2012, women made up 7.7% of court administrators in Afghanistan, and were present in only eight provinces – Badakshan, Balkh, Herat, Jawzjan, Kabul, Logar, Paktika, and Takhar.²⁰ They also receive far less training than their male counterparts. The gender analysis of USAID Rule of Law Stabilization Program-Formal Component (RLS-F) found that although 7.7% of court administrators were female, only 2.5% of participants at project-supported trainings were women.²¹

c) Prosecutors

In 2014, women made up only 8% of prosecutors²² Perhaps in an effort to address this issue, that same year, the Afghan Attorney General's Office (AGO) approved its first gender policy and action plan, the goal of which is to recruit more female civil servants and prosecutors, to provide a safe and secure work environment, and to empower them through further education opportunities.²³ In 2016, approximately 14%²⁴ of prosecutors were female, which is a significant change in just two years.

d) Lawyers

The Afghanistan Independent Bar Association (AIBA) currently has 2,891 active members of whom 673 (or 23%) are female. The majority (2,170) of the AIBA's members (male and

¹⁵ "Women's Professional Participation in Afghanistan's Justice Sector: Challenges and Opportunities." (Rome: IDLO, 2014) 21.

¹⁶ Ibid. 22.

¹⁷ *First female nominee fails to win seat on Afghan Supreme Court*, <https://www.theguardian.com/world/2015/jul/08/afghan-supreme-court-female-nominee-anisa-rassouli>, accessed 7/12/16.

¹⁸ Correspondence with IDLO official, August 2016.

¹⁹ "Gender Assessment Afghanistan Rule of Law Stabilization Program-Formal Component." (Kabul: Tetrattech DPK/USAID, 2012) 27.

²⁰ Ibid.

²¹ Ibid. 26.

²² "Women's Professional Participation in Afghanistan's Justice Sector: Challenges and Opportunities." (Rome: IDLO, 2014) 11.

²³ *New 'Gender Policy and Action plan' for AGO*, <http://www.eupol-afg.eu/node/377>, accessed 7/7/16.

²⁴ Correspondence with IDLO official, August 2016.

female) are concentrated in four provinces of Kabul (1,248), Herat (393), Balkh (309), and Nangarhar (220). Eleven provinces do not have any female members and in the remaining provinces female lawyers range from 1 in five provinces to 273 in Kabul. AIBA has a Women's Committee, the purpose of which is to secure and defend women's rights according to Islamic regulations and the formal legal framework.²⁵ AIBA has the potential to become one of the key actors in the promotion of women's rights and increasing women's participation and access to justice. It can play an important role in serving as a point of reference for the CSOs and the public in providing resources on law and Sharia; as well as using its annual AIBA conferences to promote topics relevant to justice sector reform, such as engagement between criminal defense and family law lawyers who defend women's rights on the one hand and sharia law faculty or other proponents of Islamic law on the other.²⁶

e) Ministry of Justice

The MOJ, a key ADALAT partner, had 1667 employees (professional and administrative staff) nationwide in 2013. In Kabul, there were 89 female employees (369 male employees), 37 of which were professional staff; 3 were in the *Huquq* Department.²⁷ While this low number of women in decision-making positions is reflective of the entire civil service sector, it should be noted that a meaningful increase was noted in the number of MOJ professional female staff from 28 in 2011 to 37 in 2013.²⁸

f) Law and Sharia lecturers and students

In 2013, women constituted 17% of law lecturers and only 1% of Sharia lecturers.²⁹ Three years later, those percentages have increased significantly – currently there are 10.5% female law lecturers and 9.7% Sharia lecturers.³⁰ As of March 2016, there were 42,148 law students (5,556 in governmental universities and 36,592 in private universities). Out of that number, there were 997 female students in governmental universities and 7732 in private universities.³¹ At the same time, out of 9,978 Sharia students (6212 in governmental universities and 3766 in private universities), women represented 1021 students in governmental universities and 1,700 students in private universities).³² In other words, 19.7% law students and 27.2% of Sharia students are female. In 2013, an exception to this was found in Herat, where there were more female law students than Sharia students.³³

Obstacles for women's participation in the legal profession

Afghan women who wish to pursue a career in the justice sector face numerous challenges.

²⁵ http://aiba.af/english/index.php?rcv_main=committee.html, accessed on 7/7/16.

²⁶ Hozyainova, A. "Sharia and Women's Rights in Afghanistan." (Washington, DC: USIP, 2014) 8.

²⁷ "Women's Professional Participation in Afghanistan's Justice Sector: Challenges and Opportunities." (Rome: IDLO, 2014) 26.

²⁸ Ibid. 25.

²⁹ Ibid. 11.

³⁰ Correspondence with IDLO official, August 2016.

³¹ Ibid.

³² Ibid.

³³ "Women's Professional Participation in Afghanistan's Justice Sector: Challenges and Opportunities." (Rome: IDLO, 2014) 38.

Due to social and cultural norms, girls are less likely to be enrolled in school than boys. Even for those who have family support, the choices are limited. Women in legal studies face negative gender stereotypes, and experience discrimination from their male professors and fellow students. In 2013, female students constituted only 13.2% of all enrolled law and Sharia public faculty students.³⁴ Most young women are enrolled in Sharia faculties rather than in law faculties because the classes are segregated by sex, making it more acceptable for their families.³⁵ Another factor that may influence the higher number of women in Sharia than in law faculties is that Sharia require a lower entrance score. Because of fewer opportunities afforded to young women when preparing for university entrance examination, their scores on the entrance exam are lower than those of their male peers.

A significant obstacle faced by Sharia female students has been an abbreviated curriculum (excluding jurisprudence). For example, the Kabul University's Sharia faculty 2007 (1386) curriculum required male students to complete 286 hours over the four years, while women only had to complete 260 hours. Classes not offered to women included: introduction to (statutory) law, law of obligations, governance in Islam, history of Islamic legislation, principles of issuing fatwas, Quranic studies, rhetoric, and a monograph seminar,³⁶ i.e., classes necessary for one to practice as a lawyer or a judge. The reason for the abbreviated curriculum (excluding jurisprudence) is "that Islam prohibits women from serving as judges."³⁷ Some universities – usually the ones with strong international ties and donor pressures, such as Herat University, for example - have changed their Sharia curriculum and now allow female students to sit in the same exams and have the same course credit as their male peers.³⁸ However, this change is not universal and many Sharia faculties continue to offer an abbreviated curriculum for women.

For female law or Sharia graduates, problems continue during the judicial Stage, a mandatory practical legal training program, which only takes place in Kabul. This means that participants from other parts of the country must arrange for their own accommodations in Kabul; an obstacle for all, especially those from low income households and those who do not have relatives in Kabul. Female graduates experience an additional layer of barriers, based on gender norms that prevent them from travelling alone and living away from their families for extended periods of time. The 2012 gender assessment of RLS-F found that female judges and law students identified the lack of a regional Stage program as the top barrier for success as a judge.³⁹ Additionally, women lack information about the Stage, including on the application process. For example, a survey conducted by RLS-F in 2011 revealed that only 15.2% of female law students polled in Herat and 2.8% in Mazar-i-Sharif were familiar with the application process for the Stage.⁴⁰ All of these elements contribute to low numbers of women enrolled in the Stage. In 2009-2010 graduating class, 25 out of 140 students who graduated were female, although the number has been reportedly

³⁴ Ibid. 29.

³⁵ Ibid. 38.

³⁶ Ibid. 40.

³⁷ Ibid. 40.

³⁸ Ibid.30-31.

³⁹ "Gender Assessment Afghanistan Rule of Law Stabilization Program-Formal Component." (Kabul: Tetrattech DPK/USAID, 2012) 17.

⁴⁰ Ibid. 22. Other barriers include lack of resources, such as computers, internet, and research materials.

increasing.⁴¹ Although the majority of female Stage participants have consistently ranked at the top of their graduating class,⁴² women still display lower levels of practical experience than their male peers largely due to their limited mobility.⁴³ Opportunities outside of formal education – such as mock trials, visits to courthouses, and access to legal clinics – are largely not accessible for women due to cultural norms.⁴⁴ Another significant problem with the Stage is that its guidance on women’s rights, such as the Inheritance Law or EAW is very limited, therefore obstructing progress of gender equality being upheld in Afghan courts.⁴⁵ This issue is indicative of the systematic lack of gender mainstreaming throughout all sectors in Afghanistan. The absence of gender-sensitive teaching materials and tools and their application to law interpretation and adjudication cannot lead to gender-sensitive justice.

Finally, once women manage to navigate all the hurdles described above and secure employment in the legal profession, they continue to face discrimination in regards to equal pay, promotion opportunities, lack of respect from male colleagues, threats, intimidation, bribes, and travel restrictions – all in addition to being primary care-takers of their children and households.

Women as TDR actors

An estimated 80 percent of disputes in Afghanistan are resolved via TDR mechanisms.⁴⁶ Women’s involvement as decision-makers in this space is very limited, even more so than in the formal justice sector. It should be noted here that TDR has been somewhat of a controversial topic within the context of women’s rights. The main argument against it is that although it is more culturally acceptable and accessible to the majority of Afghans than the formal sector, especially in the rural areas, it makes judgments based on established gender norms and cultural practices which heavily discriminate against women by punishing them rather than mediating a dispute in a fair manner. This, of course, is in contrast to the statutory law which operates within the framework of international law and human rights and, as such, provides equal protection for all citizens.

Precisely because of discrimination against women that can be found in TDR, it is important to have their voices present in these processes. Such examples can be found in RLS-I, which provided encouragement and space for female traditional dispute resolution actors – female *spinsary* groups, which consisted of influential females who usually resolve female related disputes. The RLS-I project evaluation found women in decision-making processes at the community level to be a significant means in the reduction of harmful practices, such

⁴¹ “Women’s Professional Participation in Afghanistan’s Justice Sector: Challenges and Opportunities.” (Rome: IDLO, 2014) 33.

⁴² Ibid.

⁴³ “Gender Assessment Afghanistan Rule of Law Stabilization Program-Formal Component.” (Kabul: Tetrattech DPK/USAID, 2012) 8.

⁴⁴ Ibid. 22.

⁴⁵ Ibid. 8.

⁴⁶ Luccaro, T. & Gaston, E. “Women’s Access to Justice in Afghanistan: Individual versus Community Barriers to Justice.” (Washington, DC: USIP, 2014) 27. In the 2015 TAF Survey of the Afghan People, 43.2% of people took their disputes to shuras/jirgas, which is obviously much lower.

as *baad* and violence against women.⁴⁷ While there were issues encountered working with these groups, such as sustainability, in some communities *spinsary* groups continued to operate and to solve problems in their individual families and communities, often working in collaboration with other decision-makers, including elders, *maliks* (traditional village chiefs) and occasionally the District Governor.⁴⁸ An important finding of the evaluation was that in some communities, including more conservative Pashtun communities with very rigid gender norms in the south, central and eastern provinces, RLS-I's training activities "may have had particularly strong effects on increasing the stature of female elders and *spinsary* groups in community decision-making."⁴⁹ A critical part of RLS-I approach was building capacity of all TDR actors on the rights of women under Sharia and Afghan statutory law.

Outside of RLS-I, women's involvement in TDR has been noted in districts with all female or mixed-sex National Solidarity Program (NSP) *shuras*. Having an option to go to another woman to resolve a family or community dispute is crucial for many women, especially those in rural areas. While there has been some backlash in more conservative communities over government efforts to forcibly promote women to decision-making positions on local NSP *shuras*,⁵⁰ the majority of respondents in The Asia Foundation's *2015 Survey of the Afghan People* who took their dispute to a local *jirga* or *shura* somewhat or strongly agreed with the statement that there should be local women's *jirgas* and *shuras* (68.0% of women and 66.3% of men).⁵¹ This fairly high percentage of support may point to the need for more women-led and administered TDR mechanisms.

Obstacles to women's participation as TDR actors

Considering that traditional justice practitioner does not require formal education, many of the obstacles faced by women in the formal justice sector are not applicable in this context. In general, however, obstacles are family and community based to a large extent. For example, if a woman is from a conservative family or a community where women's roles are restricted to reproductive work, she will not have an option to participate in community-level decision-making processes such as TDR. Conservative communities are less likely to encourage *spinsari* groups to play a role in TDR.

Access to Justice

Access to formal justice system

While it could be argued that the current legal framework provides protection of basic human rights and equality, the problem lies with its lack of implementation and enforcement. This situation creates a space for dominance of misinterpreted Sharia and customary law, both of which, to a certain degree, discriminate against women.

⁴⁷ "Performance Evaluation of the Rule of Law Stabilization-Informal Component Program." (Kabul: USAID, 2014) 28.

⁴⁸ *Ibid.* 30.

⁴⁹ *Ibid.* 10.

⁵⁰ Luccaro, T. & Gaston, E. "Women's Access to Justice in Afghanistan: Individual versus Community Barriers to Justice." (Washington, DC: USIP, 2014) 28.

⁵¹ "A Survey of the Afghan People: Afghanistan in 2015." (Kabul: The Asia Foundation, 2015) 131.

In general, Afghans are not keen on seeking justice through formal legal channels due to the overall ***distrust of the court system***. In a survey conducted by RLS-F, 22% of women reported experiencing instances of corruption while at the courthouse, including being asked for bribes and sexual favors.⁵² Less than half (47.0%) of respondents in the survey *Afghanistan in 2015: A Survey of the Afghan People* who have taken a case to the state courts agree that the state courts treat men and women equally. Interestingly, more women (51.1%) than men (43.1%) believe this to be the case.⁵³ Perhaps of most significance to ADALAT's work, 21.5% of the survey respondents reported they had a dispute or formal case that they could not resolve and had to take to the *Huquq* Department or *shura/jirga*, an increase of 2.4% over last year. Among respondents who took their case forward for dispute resolution by an external body, 43.2% took it to their local *shura/jirga*, 36.1% to a state court, and 22.7% to the *Huquq* Department.⁵⁴ Looking at the specific types of disputes or cases that respondents said they have taken to an external party for resolution over the past year, women were more likely than men to go to the *Huquq* Department with matters related to family problems and divorce.⁵⁵

Another significant barrier to women seeking justice through the formal channels is ***the absence of women in the legal profession*** – lawyers, prosecutors, judges, court administrators, as well as police officers. Evidence shows that this type of environment leads to women fearing and being intimidated by the formal justice system and not reporting abuses against them.⁵⁶ The scarcity of female legal professionals also means that women must turn to male lawyers and judges for help with “personal issues” such as domestic violence and family disputes, which is not only uncomfortable, but also rarely acceptable under gender social norms.

The overwhelming majority of women are ***illiterate***,⁵⁷ which severely reduces their ability to access information about how the system works and what it offers. The *2015 Survey of the Afghan People* showed an encouraging albeit modest increase in the percentage of women who are aware of institutions or organizations in their community where they can resolve their domestic and legal problems (23.4%, up from 19.3% in 2011).⁵⁸ Recent research identified local Department of Women's Affairs or the local representative of the AIHRC as the two state institutions where women would seek help most.⁵⁹

To combat these low levels of education, civil society organizations have been providing legal education and awareness raising. For example, Women for Afghan Women (WAW) have provided community trainings to hundreds of thousands of people in rural areas about legal issues around GBV, family violence, and traditional harmful practices. Similarly, the

⁵² “Gender Assessment Afghanistan Rule of Law Stabilization Program-Formal Component.” (Kabul: Tetrattech DPK/USAID, 2012) 40.

⁵³ “A Survey of the Afghan People: Afghanistan in 2015.” (Kabul: The Asia Foundation, 2015) 12.

⁵⁴ Ibid. 103.

⁵⁵ Ibid. 130.

⁵⁶ “Women's Professional Participation in Afghanistan's Justice Sector: Challenges and Opportunities.” (Rome: IDLO, 2014) 12.

⁵⁷ According to Central Statistics Organization's *Afghanistan Living Conditions Survey 2013-2014*, 19% of adult women and 37% of adult men are literate, p. 136.

⁵⁸ “A Survey of the Afghan People: Afghanistan in 2015.” (Kabul: The Asia Foundation, 2015) 129.

⁵⁹ Luccaro, T. & Gaston, E. “Women's Access to Justice in Afghanistan: Individual versus Community Barriers to Justice.” (Washington, DC: USIP, 2014) 34.

Women & Children Legal Research Foundation (WCLRF) has been raising awareness on GBV and on women's and children's rights since 2003 across Afghanistan. Their most recent research on sexual harassment of women in public places, workplaces and educational institutions in Afghanistan found that out of 364 female respondents in Kabul, Kapisa, Balkh, Nangarhar, Kandahar, Herat and Badakhshan, 90% reported sexual harassment in public places, 91% in educational institutions, and 87% in the workplace.⁶⁰ Sexual harassment should be incorporated in legal education and awareness raising activities related to women's access to justice.

As with other aspects of the justice system discussed here, women's access to justice is curtailed by their **limited mobility**. This is especially an issue for those in the rural areas, where reaching formal justice institutions would entail not only an appropriate male travel companion, but also the funds for transportation and legal representation fees. Finally, the **fear of consequences** for going outside of family or community for dispute resolution is another factor preventing women from seeking justice from the formal system.

Access to TDR mechanisms

According to research, both Afghan men and women prefer community TDR mechanisms to the formal justice system "because they are quick, cost-effective, and knowledgeable about the situation in the community as a whole and about community values,"⁶¹ and because decisions reached through these mechanisms are more likely to be respected and enforced than the formal justice mechanism decisions.⁶² Women still use these mechanisms less frequently than men, and many are weary of them because they don't anticipate getting a fair hearing. This is because the justice provided by such mechanisms is frequently discriminatory or even abusive toward women; it is based on community compromise rather than rights enforcement (which is what some women want); and exacerbates existing gender inequalities by not allowing women to represent themselves in many community forums.⁶³ In fact, because of these challenges with TDR, the largest number of disputes involving women is resolved at the family level,⁶⁴ which makes documentation and tracking of such disputes a particular challenge.⁶⁵ In recent research, women reported that they preferred to solve their disputes or raise issues or concerns among other women in the family, since men do not listen to them; many also stated that they did not want to "air" private matters outside their family and that "they would face extreme social, economic, or physical consequences for sharing family problems with outsiders."⁶⁶ In most cases, if women can't get their issues resolved within their family, they will turn to community TDR, and seeking justice via the formal justice system is their last resort.

Conclusions

⁶⁰ *Research on sexual harassment of women in public places, workplaces and educational institutions of Afghanistan*, <http://www.wclrf.org.af/?p=859>, accessed 7/14/16.

⁶¹ Ibid. 27.

⁶² Ibid. 27.

⁶³ Ibid. 32.

⁶⁴ Ibid. 23.

⁶⁵ Ibid. 24.

⁶⁶ Ibid. 24.

This gender analysis found gender gaps in participation and access to justice – both formal and informal. In participation and representation of women in the formal justice sector, the findings indicate that the government has not been able to create conditions needed to meet the goal of 30% of women in the justice sector.

Over the past decade or so, women’s representation in the formal justice sector has increased. For example, in 2008, only 4.7%⁶⁷ of judges were female – in 2016, that percentage has nearly doubled to 9%. Even greater increase has been noted when it comes to prosecutors – in 2008, there were 6.4%⁶⁸ female prosecutors, and today they make up 14%. However, while those numbers show a positive trend, they are not even close to reaching the 30% target set nearly 10 years ago. A more encouraging situation can be found in regards to female law students (23%) and Sharia students (27.2%). The fairly high number of Sharia students will hopefully translate into more female judges and prosecutors.

The other type of justice available to Afghans – TDR – is generally not friendly to women as it frequently relies on discriminatory gender norms to reach judgements, and it is largely devoid of women as justice makers.

While ADALAT will not be able to address all the obstacles discussed in this report, considering its limited scope of work and timeframe, it can make meaningful contributions in gender mainstreaming, primarily through capacity building and grants.

Recommendations for ADALAT

The recommendations below include concrete activities that can be undertaken by ADALAT over the next three years.

- **Build gender mainstreaming capacity of AIBA, especially its Women’s Committee.** ADALAT should assist AIBA with organizational gender mainstreaming – hiring and personnel policies, gender balance on the Leadership Board and other committees, and gender sensitivity training for all members. Furthermore, working closely with AIBA’s Women’s Committee will be crucial to strengthen female lawyers’ unified voice and reach.
- **Work with AWJA to strengthen its capacity and promote women’s participation in the sector.** Strengthening AWJA through joint activities may include trainings for organizations’ staff as well as for their members on requested topics, conferences to promote women in the justice sector, working groups, awards programs, etc.
- **Develop a mentorship program for women in the legal profession.** After ADALAT has invested time and effort on building AWJA and AIBA’s capacity, it should help develop a mentorship program linking female judges and lawyers with female law students and recent graduates. This activity will require coordination with law and Sharia faculties. The purpose of this program is to connect students or young lawyers with the more established women in the sector who will offer career

⁶⁷ “Women’s Professional Participation in Afghanistan’s Justice Sector: Challenges and Opportunities.” (Rome: IDLO, 2014) 20.

⁶⁸ Correspondence with IDLO official, August 2016

related guidance and support. This will be especially crucial in the provinces, where the number of women in decision-making positions is very low.

- **Provide professional development and “Sharia curriculum gap” courses to female graduates.** In its efforts to develop judicial skills of Stage trainees, ADALAT should take into account the distinct disadvantages faced by female trainees and design personal development courses for these graduates on topics including leadership, management, negotiation and communication skills, ethics, computer skills; and English and Arabic language classes. In addition, for female Sharia graduates who, despite changes within some Sharia faculties, still continue to receive abridged version of the men’s Sharia curriculum, which puts them in a less advantageous position to pass the entrance exams for the Stage, ADALAT can help develop a “bridge” course to bring them up to speed and put them on an equal footing with their male colleagues – at least in terms of knowledge. Clearly, this is only a temporary solution – the permanent solution is to provide the same Sharia curriculum to both male and female students.
- **Facilitate a working relationship between MOJ and MoWA *Huquq* departments.** MoWA’s *Huquq* Department trains its legal staff on legislative drafting, the law on EVAW, gender justice, forced marriage, running away, victim advocacy, and victim witness protection measures. These are the topics that all MOJ *Huquq* legal staff should be trained in. Providing joint trainings to both *Huquq* departments would be an effective and efficient way to build their capacity.
- **Work with government and private law faculties to mainstream gender into their operations.** Specific activities here may include the development of recruitment policies for female faculty; revision of current promotion policies; identifying male “gender champions” at the university level; and revising the current curriculum so that it contains classes which focus on obstacles to women’s access to justice and ways to alleviate them from a legal perspective.
- **Build on the RLS-I work with *spinsari* groups.** ADALAT should identify additional communities where the concept of women’s involvement in dispute mitigation is acceptable and encourage the formation of new *spinsari* groups. As under RLS-I, these activities should be approached with the full support and engagement of men in the community, especially male elders and *Ulemas*, since their approval makes it more likely that women’s groups will be successful and sustainable.
- **Provide support to events and campaigns that promote women’s access to justice and women’s rights.** These events may include TV and radio programs, roundtable discussions, PSAs, social media, conferences and talks. To reach a wide variety of audience, the individuals associated with these activities should represent women, men, the youth and disadvantaged groups.
- **Ensure that at least 30% of grants awarded to CSOs under ADALAT are for the purposes of increasing gender equality and access to justice.** Areas of focus including public education activities targeting women (especially in the rural areas with low levels of literacy) and campaigns on their legal rights and access to services that help protect these rights will be of particular interest for funding.

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Annex B - Gender Action Plan

Activity	Timeframe	Responsible Party	Deliverable/Target
SUB-PURPOSE 1			
INCREASED FORMAL JUSTICE SECTOR EFFECTIVENESS			
Review the IDLO survey instruments on the training needs of the sitting judges from a gender perspective to ensure that the needs of both male and female judges are reflected in their design.	2 nd – 4 th quarter	ADALAT senior gender specialist	Gender review and comments provided.
Conduct a focus group discussion with female judges (or members of AWJA) in order to assess their training needs separately.	2 nd – 4 th quarter	ADALAT senior gender specialist	Focus group conducted; needs of female judges noted.
Ensure that a non-judicial staff training needs assessment takes into account the needs of female staff.	2 nd – 4 th quarter	ADALAT senior gender specialist and Sub-purpose 1 staff	Needs assessment completed.
Provide assistance to the AWJA in the preparation of a CJE program to be delivered by members of the Association at a plenary session of the Kabul judicial conference.	2 nd – 4 th quarter	ADALAT senior gender specialist and Sub-purpose 1 staff	Relevant assistance provided.
Develop a strategy for cooperation with AWJA for the duration of the project. Activities should include capacity building, networking, and developing a mentorship program with law and Sharia students and graduates.	2 nd – 4 th quarter	ADALAT senior gender specialist, Sub-purpose 1 staff, COP	Strategy developed.
Integrate gender in AIBA's long-term strategic plan.	3 rd and 4 th quarters	ADALAT senior gender specialist and AJO staff	AIBA's strategic plan contains gender considerations.
Ensure that new AIBA procedure manuals that regulate personnel	3 rd and 4 th quarters	AJO staff	AIBA's personnel policies are

administration include gender-sensitive hiring policies; anti-harassment policy, parental leave, etc.			gender-sensitive.
Advocate for the inclusion of female lawyers on the AIBA Leadership Committee.	3 rd and 4 th quarters	AJO staff and COP	AIBA's Leadership Committee has TBD women members.
Provide training to the AIBA Women's Committee on advocacy skills, practical substantive and procedural trainings, networking skills, media engagement skills, and law practice management skills.	3 rd and 4 th quarters	AJO staff	Women's Committee members trained in advocacy skills, practical substantive and procedural trainings, networking skills, media engagement skills, and law practice management.
Encourage and support the Women's Committee members to be role models for young Afghan women and girls who aspire to be lawyers, prosecutors or judges by visiting high schools and universities to discuss career opportunities for women lawyers.	3 rd and 4 th quarters	AJO staff	Female lawyers visit high schools and universities.
Draft an action plan in consultation with the Women's Committee to increase the number of female AIBA members and to develop ways to encourage female lawyers to practice law in areas underserved by female lawyers.	3 rd and 4 th quarters	AJO staff and ADALAT senior gender specialist	Action plan drafted.
Assist AIBA to improve its website by featuring activities of the Women's Committee to engage young generation as well is raise public awareness on women's issues both in the legal profession and the needs of the Afghan women in general.	3 rd and 4 th quarters	AJO staff	AIBA website inclusive of Women's Committee activities.
SUB-PURPOSE 2			
STRENGTHENED FORMAL-TRADITIONAL JUSTICE SECTOR LINKAGES			
Encourage and support hiring of female trainers and staff for the	Ongoing (LOP)	Sub-purpose 2 staff	Female trainers hired; increased number of female

MOJ Huquq dept.			staff hired
Include gender considerations in HIDC assessment of MOJ Huquq.	2 nd quarter	ADALAT senior gender specialist, HICD advisors	Gender sensitive HIDC assessment conducted.
Facilitate contact between MOJ and MoWAs Huquq departments to share training modules and/or discuss and implement joint training opportunities on topics relevant to women's rights in the legal framework.	Ongoing (LOP)	ADALAT sub-purpose 2 staff and senior gender specialist	Contact established; collaboration started.
Ensure that the training needs assessment of MOJ Huquq staff is conducted from a gender perspective.	3 rd and 4 th quarters	ADALAT sub-purpose 2 staff and senior gender specialist	Gender sensitive training needs assessment conducted.
Train TLO and other CSOs on women's rights under Islam, ERAW law, and other relevant laws that govern disputes that women are usually involved with – divorce, child custody, and land ownership.	2 nd quarter	ADALAT sub-purpose 2 staff and senior gender specialist	Training completed.
Develop new and/or modify existing modules to train CSOs on the topics.	2 nd quarter	ADALAT sub-purpose 2 staff and senior gender specialist	Materials developed.
SUB-PURPOSE 3			
INCREASED CITIZEN DEMAND FOR QUALITY LEGAL SERVICES			
Provide legal outreach and awareness grants to organizations such as WAW and WCLRF, which work on bringing legal education to rural women and on educating the public on issues such as GBV, harmful traditional practices, sexual harassment and women's and children's legal rights.	3 rd and 4 th quarters	ADALAT SGC Manager, sub-purpose 3 staff and senior gender specialist	At least one grant awarded to CSOs working on gender justice and women's rights.
Provide courtroom and Huquq monitoring grants for cases related to GBV, custody, divorce, and property rights (i.e. involving women).	3 rd and 4 th quarters	ADALAT SGC Manager, sub-purpose 3 staff and senior gender specialist	At least one grant awarded for cases with female defendants.
Provide necessary arrangements so that female professors from the provinces are able to participate in AUAF summer sessions.	4 th quarter	ADALAT SGC Manager, sub-purpose 3 staff and	20% of professors participating are female.

		senior gender specialist	
PROJECT ADMINISTRATION/MANAGEMENT			
Provide gender sensitivity training for ADALAT staff.	2 nd quarter	ADALAT senior gender specialist	Staff trained and sensitized.
Include gender considerations in Year 2 work plan.	4 th quarter	ADALAT senior gender specialist	Year 2 work plan inclusive of gender considerations.
Develop GAP for Year 2.	4 th quarter	ADALAT senior gender specialist	Year 2 GAP developed.
Ensure that all project quarterly and annual reports discuss status and results of gender activities from this plan.	Ongoing	ADALAT senior gender specialist	Progress reports submitted to USAID are gender-sensitive.