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AFGHANISTAN RULE OF LAW STABILIZATION PROGRAM (INFORMAL COMPONENT)

-ASSESSMENT-

Final Report

January 24, 2011

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Disclaimer

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development, the United States Government or any other individual or organization cited herein.

Cover Photo: Village/Tribal Elders, Kandahar Province.

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ACRONYMS

ADR	Alternative Dispute Resolution
CBDR	Community-Based Dispute Resolution
CCC	Community Cultural Centers
CCN	Cooperating Country Nationals
CDC	Community Development Councils
CDP	Capacity Development Program
COIN	Counter-insurgency
DC	District Centre
DfID	Department for International Development [UK]
DG	District Governor
DR	Dispute Resolution
FOB	Forward Operating Base
GIRoA	Government of the Islamic Republic of Afghanistan
GTZ	German Technical Cooperation
ICT	Information and Communication Technology
IJS	Informal Justice System
INS	Insurgency
IP	Implementing Partner
IROA	Islamic Republic of Afghanistan
ISAF	International Security Assistance Force
IT	Information Technology
M&E	Monitoring and Evaluation
MI&C	Ministry of Information & Culture
MoJ	Ministry of Justice
MoU	Memorandum of Understanding
NGO	Non-Governmental Organization
NSP	National Solidarity Program
PGO	Provincial Governor's Office
PMP	Performance Management Plan
PRT	Provincial Reconstruction Team
PSC	Program Steering Committee
PMS	Performance Management System
RBM	Results-Based Management
RLS-I	Rule of Law Stabilization - Informal Component
SME	Subject Matter Expert
SOW	Scope of Work
TNA	Training Needs Analysis
TLO	The Liaison Office
UNDP	United Nations Development Program
USAID	United States Agency for International Development
USG	United States Government
WB	World Bank

1.0 EXECUTIVE SUMMARY

1.1 Introduction and Background

This report is an assessment of USAID's Afghanistan Rule of Law Stabilization Program: Informal Component (RLS-I). The goal of RLS-I is to help decrease instability and neutralize anti-GIRoA influence in targeted areas in Afghanistan's southern and eastern regions through strengthening the ability of Community-Based Dispute Resolution[1] (CBDR) processes to resolve disputes and raise the population's awareness of the law and legal rights.

What is unique about RLS-I is that it is one of the first times a donor project has focused entirely on supporting the organic development of the informal or justice sector in Afghanistan. The specific objectives of this assessment are to inform the decision of whether to continue work in the informal justice sector beyond the termination of RLS-I project, and if so, how to design this work. The assessment is also to provide guidance on any adjustment to be made in the final few months remaining in the current contract.

1.2 Methodology

The assessment team reviewed pertinent reports and documents, and carried out 30 individual and small group interviews with international staff of Checchi RLS-I in Kabul, and RLS-I local staff, male and female elders, and stakeholders including a District Governor (DG), a District Development Assembly Shura Head, Independent Directorate of Local Governance Shura members, a judge, several huqooq officials, and USAID & State ROL representatives in 3 pilot districts – Arghandab in Kandahar, and Behsood and Sukh Rod near Jalalabad. A village-level survey was carried out by a local NGO - The Liaison Office (TLO) - that comprised 20 focus groups totaling approximately 100 persons (one-third of whom were female). Preliminary findings were shared in a presentation to USAID/Kabul and US Embassy on January 13.

1.3 Main Findings

CBDR can quickly 'fill a justice gap' in a recently pacified area and thereby prevent Taliban justice from regaining a foothold.

In many parts of the country the formal justice system is simply non-existent so CBDR is 'the only game in town' and, in the opinion of many persons interviewed, even minor strengthening of CBDR can help prevent a "teetering" area from reverting back to Taliban justice and influence.

There is an overwhelming preference for CBDR as a first course for justice.

The assessment team was told that in much of the country, especially in rural areas, as many as 95% of cases flow though CBDR. Those interviewed prefer CBDR because it is low cost, fairly expeditious, and the outcomes are mostly fair and balanced with decisions based on a deep understanding of community dynamics.

CBDR has been diminished over the years - severely in some areas.

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[1] CBDR, as used in this report, is defined in the "Background" section. It is also known as traditional justice, informal justice or alternative dispute resolution. Though there is much debate about the proper terminology, for the purposes of this assessment, the terms are used interchangeably.

Despite being seriously undermined over a protracted period due to war, interference by power brokers and war lords, and imposition of 'Taliban justice', CBDR has proven resilient. With proper support it can quickly be revitalized and thrive.

Communities in targeted areas have embraced the project's objectives and activities.

Communities have warmly received this program, judging by the turnout at project events. All beneficiaries and stakeholders interviewed expressed positive views on the project. TLO focus group participants in Nangarhar noted the practical value of RLS-I and appreciated that its support was "in accordance with our culture and traditions" and noted it "benefits the whole community". Those interviewed by TLO want the project to be lengthened and districts adjacent to the pilot sites want the project to be extended.

The causal link underlying the project's design and strategy is clear and logical.

Many of those interviewed agreed that a fully functioning informal justice sector reduces tension, conflict and violence in an area. There was skepticism that outsiders could have leverage on influencing traditional ways such as CBDR but the overall approach of RLS-I focusing on institutional strengthening through networks and linkages, and capacity development through training and outreach, is seen as sound and grounded in realities. The project's direct intervention in conflict-resolution of major land disputes is more geared toward the pressing Counter-insurgency (COIN) imperative rather than strengthening CBDR.

The project is capable of rapid deployment in recently pacified areas.

The project has shown of late that it can quickly initiate activities to build CBDR.

The basic model of strengthening CBDR is adaptable to unique circumstances.

The community assessments are critical not only to allow an understanding of the context, but to allow for variances in conditions to be reflected in action plans. Project staff indicates the assessment phase can now be streamlined to less than one month.

There is a strong demand/receptivity among Village Elders for knowledge of the law and legal rights.

All Elders interviewed indicated they are keen to learn about the law, and focus groups conducted by TLO in Nangarhar expressed appreciation for the practical knowledge they gained. The feedback received from Village Elders interviewed was that topics are relevant and practical.

There are multiple benefits to training Village Elders that strengthen CBDR.

Elders self-report that they have more confidence in their abilities and decisions as a result of participating in training. There are early indications that the knowledge gained in training is resulting in better CBDR decisions. Key informants insisted that *baad* was on the decline in pilot districts, at least in the East, and this was supported by comments from the TLO focus groups in Nangarhar as well. The project has been actively pushing for criminal cases to be dealt with by formal justice system. The impression gained was that due to participating in project events, the status and prestige of the Elders was elevated and resulted in more authority thereby reinforcing traditional leadership structures. The workshops are helping to modernize attitudes and mindsets.

There are benefits to networking Village Elders that improve the efficacy of CBDR.

The Elders interviewed, whether members of a regional or district network, indicated that networking enables them to share information and ideas, and exchange experiences. The regional networks afford an opportunity to use Elders from other provinces to mediate in inter-tribal or inter-community disputes. In the south, the DG has attended several project events and, as a result, is now more comfortable referring cases to elders he knows through network.

The project has strengthened the interface between the informal and formal justice sectors vis-a-vis referrals, registering and working groups.

It is becoming more common in Arghandab for disputants to bring their disputes, which could not initially be solved through local CBDR processes, to the District Governor for referral back to the village elders, a practice upon which the implementing partner has had an influence. A system is being developed for registering written records of CBDR decisions in Arghandab and a manual will soon be prepared. In Arghandab, it is now common to bring decisions referred to them by the DG back to the DG for sign/seal. In the east they have established a Working Group comprising State actors and senior Elders to discuss topics around the formal-informal interface.

The project has demonstrated that CBDR can provide concrete opportunities for female empowerment, but significant challenges remain.

In the east, the attitude toward women's involvement in CBDR is much more open than in the south. The project has started women discussion groups to increase women's role in CBDR and to better equip them to resolve disputes. Key informants in the south and east were asked about 'pushback' from the men regarding women's increasing involvement in CBDR and they responded this was not happening. In Nangarhar, TLO respondents had heard of women being included in Jirgas while none had in Kandahar. RLS-I was credited with making male elders aware of women's rights. Kandahar respondents did not think the project could impact women beyond their immediate families.

The project is beginning to increase women's knowledge of their rights.

Female participants in the TLO focus groups in Nangarhar felt they were now aware of women's rights and had been "given the tools to participate in public life". Many women from the east indicated that the project was empowering, but in the south women in the TLO focus groups said they could only apply what they had learned in their homes. Women elders interviewed said this newly acquired knowledge made them more confident. Women's rights are promoted through project-sponsored radio and TV broadcasts.

There was mixed success with project legal outreach and awareness activities.

The project is helping six Community Cultural Centers (CCCs) become *legal information centers* by partnering with them on CBDR-related print materials, and radio and TV spots. The feedback on mass media pieces is that they are of high quality and the message is clear and culturally appropriate, but for CCCs it is at best mixed. Many TLO focus groups stated they had not heard of CCCs while a few reported they had used their facilities for Jirgas or other community meetings. The Arghandab CCC is seen as a failure due to the fact that it is located at the District Center and as such not accessible for women. There has been no real effort by the implementing partner (IP) to determine whether mass media communications are reaching their audience.

Some aspects of the project are characterized by sustainability while others are questionable.

The project is centered on supporting a pre-existing dispute resolution structure and as such benefits will likely be sustained. The local elders' networks will likewise be sustained as evidenced by the fact that in the south, elders report they meet at the village/cluster level without being organized by the IP. For regional networks, long-term survival is doubtful but these are built more for COIN purposes to address long-running intractable 'legacy' disputes. Because CCCs are run by volunteers and usually in donated premises that means their operating costs are negligible so concern for their financial survival may be unwarranted.

The project is showing many positive developments after only six months of activities.

TLO survey respondents in Nangarhar and Kandahar did credit RLS-I with enhancements to the Jirga system that have improved its operational effectiveness. Early results are remarkable considering initial activity was research-oriented and the pilots are in conflict-affected environments. There are also unanticipated outcomes – one is the 'spillover' effect from the project into neighboring areas[2] such that requests are coming in to extend the project.

The precise extent and nature of project achievements at the 'intermediate outcome' level cannot be determined at this time.

Because of the numerous deliverables evident, we can say the CBDR mechanism is being strengthened. However, we cannot say to what extent, as the Performance Monitoring Plan (PMP) has serious deficiencies. The results-based framework for this project is not well-defined in terms of metrics. For example, it is unclear whether the project is effective at getting information to locals on their legal rights and to what extent those participating in workshops are applying the new knowledge.

The achievements of the project varied significantly between the South and East.

Between the south and east in Afghanistan, there are marked differences with respect to CBDR. Strengthening CBDR in the East means reinforcing CBDR, while in South it means revitalizing the mechanism. There is a greater tendency for district government in the south to get involved in CBDR, whereas in the East there was no mention of the executive branch. In the south conservative values are pronounced regarding the role of women while the East demonstrated greater involvement by women in CBDR. Finally, there is a relative lack of freedom of movement by project staff in the more kinetic areas.

There are several critical success factors for the project

Critical success factors for the project hinge on the 'Afghan-only' principle and include consultation with beneficiaries and stakeholders; the field team's deep experience; that only local Afghan staff have direct contact with communities and Village Elders; and the legal outreach materials and broadcasts culturally sensitive and appropriate design.

[2] In the East, the project has 21 women elders from non-pilot districts in their network.

1.4 Conclusions

- A stronger CBDR can diminish Taliban influence as well rapidly bring down the level of violence and conflict in targeted areas – as such there is no dichotomy between short-term COIN imperatives and long-term developmental goals.
- CBDR has been seriously eroded over the years though it has not disappeared as a cultural practice as it is well entrenched in the fabric of society.
- Training is practical and culturally sensitive but the extent to which the learning is later applied remains to be seen and may not be applied outside of families.
- Support by men for a greater role for women in CBDR can be engendered and maintained.
- There is potential for regional Elders' networks to address case-specific 'legacy' issues but it is as yet unproven as these are in the formative stage.
- The quality of mass media pieces is commendable but it is not possible to determine to what extent the general public in pilot districts is receiving them.
- Project sustainability is mixed - support for pre-existing structures is sound but some of the regional elders' networking may atrophy after donor support is gone and the financial situation of the new CCCs set up by the project is an unknown.
- Achievement of many early results is remarkable considering that the project was research-focused initially and is piloting in conflict-affected environments.
- There are inadequate metrics for progress monitoring and assessing results. Project baselines are weak and clear benchmarks are lacking.
- Despite differences in operational conditions, the project can still achieve results in the South but obviously to a lesser extent than in less kinetic areas in the East.
- The project is breaking new ground in implementing innovative programming and curriculum, materials, methodologies and tools developed are a valuable resource.

1.5 Recommendations

- The overall recommendation is that CBDR strengthening support should continue as CBDR mechanisms can be rapidly revived through donor intervention to fulfill needs of a recently pacified community for justice while at the same time help prevent the Taliban from re-establishing their influence.

Suggested priorities for the remaining period of the current program include:

- Reduce the amount of time allotted to area assessment from two to one month.
- Carry out surveys of training participants to assess whether the legal knowledge is being applied in their communities, how it is being used and to what extent.
- Clarify the casual connection between training activities and outcomes in terms of increase justice quality, reductions in abuses and violations, enhanced traditional leadership structures, and in status and credibility of participating Village Elders.
- The project should look for more ways to build and strengthen the linkages between the formal and informal justice sectors.
- The project should increase women's involvement and participation in CBDR to improve their access to justice and for gender equality.
- The security situation in Arghandab needs to be re-examined to determine if improvements are sufficient to warrant re-location of the CCC to one of the major villages.

- The project should carry out surveys of the public in the pilot districts to determine whether legal outreach efforts are effective and the distribution mix is optimal.
- The project needs to keep pushing to address abuses in the area of human rights, especially women's rights, and any violations of Afghan/Sharia law, but with a good understanding of the cultural context.
- The project should study the utility or value of regional Elder's Networks and, if appropriate, solicit for funding on their behalf.
- The project needs to thoroughly test various approaches for case-specific conflict resolution of intractable 'legacy' disputes.
- The project should assist each CCC develop a sustainability plan.
- The project needs to prepare a comprehensive PMP as soon as possible.
- Project activities in the south should continue as they are producing results, even though operating in a difficult environment.
- The project needs to write up the innovative programming as a toolkit for future replication. Once 'packaged', the streamlined model will produce quicker results.
- The project needs to more effectively communicate achievements and success stories to stakeholders.

2.0 INTRODUCTION

The Afghan Rule of Law Stabilization Program (Informal Sector) (RLS-I) is a one-year USAID-funded pilot initiative that builds on prior interventions supporting rule of law capacity building and reform in Afghanistan. What is unique about RLS-I is that it is one of the first time a donor project has focused entirely on supporting the organic development of the informal justice sector in Afghanistan. USAID is therefore keen to have an independent examination of the experimental model being developed to strengthen the Community-Based Dispute Resolution (CBDR) mechanism.

According to the Scope of Work for this assignment (Annex A), the purpose of the assessment is to;

- Inform the decision of whether to continue work in the informal justice sector beyond the termination of RLS-I project;
- If an extension of RLS-I is recommended, then how to re-design this work to enhance operational effectiveness and improve overall results in the follow-on project;
- And to a lesser extent, provide guidance on any adjustment that needs to be made in the remaining few months of the current contract - this may include a 'bridging' phase to the follow-on project if a decision is made to continue supporting the informal justice sector.

An international consultant was engaged directly by USAID/mission to lead the assessment team comprising two USAID representatives from Kandahar and Kabul. The Team Leader (TL) was in-country from January 1 to 17. In addition, a local NGO - The Liaison Office - was engaged to carry out a village-level survey. The logistics to facilitate the TL field visits was organized by Checchi Consulting through its RLS-I project.

This Final Report is structured as follows:

- **Executive Summary** outlining key findings and recommendations.
- **Introduction** discussing assessment purpose and the structure of this report.
- **Background** presenting the context for the assessment.
- **Methodology** describing how the assessment was carried out.
- **Findings** presenting key observations based on an analysis of data and information.
- **Conclusions** drawing summary deductions from the analysis.
- **Recommendations** addressing concerns identified and constituting a go-forward plan.

3.0 BACKGROUND

This section of the report presents a very brief overview of the informal justice sector in Afghanistan and associated donor interventions. This will help contextualize the findings, conclusion and recommendations of the assessment.

3.1 Informal Justice in Afghanistan

Community-based dispute resolution processes, alternatively called the "traditional justice system" or "informal justice sector", are the means by which disputes, whether individual or community, are resolved at the community level in Afghanistan. Oftentimes, these processes include *Shuras*, which are sitting bodies with responsibility for addressing disputes, and *Jirgas*, which are *ad hoc* councils gathered to address specific disputes. These bodies are typically comprised of community leaders respected within the community, and typically address disputes arising from land and water use, as well as criminal misconduct.

Given the limited functionality of the formal justice sector outside of major urban areas, CBDR processes play a significant role in addressing the dispute resolution needs of the rural population to which 75% of all Afghans belong. In fact, studies suggest that 80% of all disputes are resolved through CB states "DR processes.[3] In contrast to the formal justice sector, which is based on retributive justice principles, CBDR processes accentuate restorative justice principles with results seeking to promote social harmony within the community.

There has been a confluence of several factors which have debilitated CBDR processes throughout the country. Insurgents have intimidated village elders engaged in dispute resolution through violence; imbalanced power relations have undermined the fairness and thus, the legitimacy of the processes; and *shuras* established by the government to address security and development have begun to address disputes. Moreover, some CBDR practices violate human rights guarantees as contained in Afghan law.

3.2 Rationale for Intervention by USAID

According to the United Nations Development Program's 2010 Human Development[4] Report, Afghanistan is ranked 155[5] with many developmental challenges. This country's approach to human development is found in The Afghanistan National Development Strategy (ANDS)[6]. Under the second pillar, Governance, Rule of Law and Human Rights, the goal is to strengthen democratic processes and institutions, human rights, the rule of law, delivery of public services and government accountability. Within the governance 'sector' is the judiciary, civil society, media and government.

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[3] N. Coburn and J. Dempsey, *Informal Dispute Resolution in Afghanistan*, United States Institute of Peace, 2010, footnote 4.

[4] The core of human development are sustainability, equity and empowerment and inherent flexibility.

[5] Life expectancy for an Afghan is 44.6 years, mean years of schooling is 3.3 and per capita income $1,419.

[6] ANDS is structured around Security, Governance, Infrastructure & Natural Resources, Education and Culture, Health & Nutrition, Agriculture & Rural Development, Social Protection, and Economic Governance & Private Sector Development. In addition, there are cross-cutting issues of capacity-building, gender equity, counter narcotics, regional cooperation, anti-corruption and environment.

The USG officially supports the traditional justice system. The third pillar of its Rule-of-Law Strategy for Afghanistan states USG will "provide security and space for traditional justice systems to emerge organically in areas cleared of the Taliban and engage closely at the grassroots level to ensure dispute resolution needs in the local communities are being met". It continues that "as military forces clear areas, joint Afghan/civilian teams will consult with communities and tribal leaders to assess their dispute resolution needs, identify priorities and provide support as needed to re-establish and/or strengthen traditional mechanisms, where appropriate". The strategy also calls for:

- a liaison method between the government (executive and judicial institutions) and Jirgas/Shuras to share information and encourage links between the systems to more effectively resolve disputes;
- distribute basic information about aspects of Afghan law to Jirga members and the community, including specific mention of abuses of human rights, especially women's;
- Encourage use of community-based reconciliation of legacy issues between different parties.

The United States has taken a lead in working on informal justice sector issues in Afghanistan. The United States Institute for Peace has engaged in research in this area since 2002. In 2006, it supported a local non-governmental organization, TLO, as it established Commissions on Conflict Mediation (CCMs) in select provinces. These CCMs, comprised of respected village elders, receive disputes from the Provincial Governor. Beginning in 2009 and with financial support from the Bureau of International Narcotics and Law Enforcement Affairs at the State Department, it has initiated a series of pilot projects designed to improve access to justice by forging greater links between the informal and formal justice systems. In addition, USAID has funded the Afghan Social Outreach Program or ASOP that supports the Independent Directorate of Local Governance in establishing district community councils. These councils address dispute resolution through their legal sub-committees.

Recently, other donor countries have expressed interest in the informal justice sector. The International Law Development Organization, funded by the Dutch and Italian governments, will shortly begin to carry out assessments of informal and formal justice sectors in select districts with a view to subsequent intervention. The World Bank also plans to engage with the informal sector in phase 2 of its justice sector program.

3.3 Afghan Rule of Law Stabilization – Informal Component Project

The goal or **overall purpose** of the RLS-I is to contribute to decreasing instability in targeted areas in Afghanistan's southern and eastern regions.

RLS-I o**bjectives** are:

- Strengthen the ability of CBDR processes to resolve disputes and provide justice in order to provide functional alternatives to Taliban courts and formal justice mechanisms that are currently ineffective.
- Raise the populations' awareness of their constitutional and legal rights.
- Improve central and sub-national capacity to reform and foster legitimate and reliable delivery of 'traditional' justice to build confidence in the government and neutralize anti-GIRoA influence.

- Support recognized community leadership structures to reinforce traditional stabilizing systems.
- Encourage gender equality and reduce the prevalence of human rights abuses during CBDR processes that resolve disputes and provide justice.
- Map CBDR structures in order to determine linkages between CBDR and GIRoA and strengthen those linkages.

The **priorities** of RLS-I are to:

- Increase women's access to and participation in dispute resolution;
- Establish and support communication networks of community elders that reinforce traditionally stabilizing leadership structures;
- Facilitate opportunities for community leadership to increase their understanding and access to CBDR;
- Create linkages between the state justice sector and CBDR;
- Provide targeted populations with information concerning their constitutional and legal rights and CBDR processes;
- Increase citizens' access to criminal defense services.

The **modalities** utilized by the project – that is activities and measurable deliverables to achieve these purposes - are to build the capacity of community members, elders, and stakeholders through activities including training, workshops, outreach events, publications, assessment, recording and monitoring tools, technical assistance, networks and partnerships.

The RLS-I submitted an illustrative PMP in their April monthly report and a revised one in November but neither contained a comprehensive results-based framework showing results to be achieved at three levels – immediate outcomes [outputs], intermediate outcomes [achievement of objectives] and ultimate outcomes [achieving overall purpose].

In terms of **program scope**, RLS-I is a one year project that commenced March 18, 2010 and will end March 19, 2011 with a budget of $ 9.9 million.

In terms of **resource allocation,** RLS-I provides material and technical support to Community Cultural Centers, the International Legal Foundation-Afghanistan (ILF-A) and men's and women's elders networks. RLS-I currently contracts six international experts and 34 national technical staff of which 30 are located in field offices in Kandahar and Jalalabad. See RLS-I Organization Chart in Annex H.

4.0 ASSESSMENT APPROACH AND METHODOLOGY

This assessment deals with a 9-month period from RLS-I inception in mid-March 2010 to December 2010 and focuses on two components of RLS-I - pilot projects (the 'flagship' activity) and public outreach.

The assessment team was tasked with informing the decision of whether to continue working in the informal justice sector beyond the end of the current project and, if so, how to re-design this work. The assessors were also asked to suggest changes in the final few months of RLS-I. The Assessment Team's statement of work (SOW) contained 18 evaluative questions (see Annex D).

There were **limitations** on the assessment in that this inquiry was neither an evaluation (in-depth investigation) nor a value-for-money audit[7]. The assessment was framed to be a high-level analysis of RLS-I operations, challenges and results regarding two of its components. As such, the assessment team was not required to judge individual staff performance.

In line with the SOW, this assessment is both forward-looking and improvement-oriented in order to maximize the relevance and utility of findings to USAID.

The **overall approach** to this assessment was to determine the categories of information needed with reference to the objectives of the assignment and the questions above, gather as much relevant information on the two components as possible within the time and budget allotted from multiple sources, and then analyze this data and make recommendations.

The following 10-step methodology was followed by the Assessment Team:

1. A desk review of pertinent literature and relevant RLS-I project documents to gain background understanding of the context and operations of the two components (see main documents referenced Annex C);
2. Prepare an interview guide comprising semi-structured questions[8] to facilitate soliciting information from key informants (see Interview Guide in Annex D);
3. Identify wide ranging 'key informants'[9] to include RLS-I project staff, beneficiaries in the pilot districts and other stakeholders[10] (a list of key informants and meeting dates/times can be found in Annex F);
4. Schedule interview appointments with 'key informants'– individually and in groups - to ascertain their understanding, opinions and perspectives of RLS-I;
5. Conduct interviews at three levels – those involving USAID representatives security permitting, those involving the Team Leader and those deemed unsafe for expatriates to participate so were carried out by a local NGO. TLO fielded two teams – one in the South and one in the East – to gather village-level information (see TLO summary reports Annex E);

[7] See the new USAID Evaluation Policy from the Bureau of Policy, Planning and Learning, p.4.

[8] Time and budget constraints did not permit a questionnaire survey of beneficiaries and stakeholders.

[9] This "fishing in several ponds" allows for a wide cross-section of opinion and perspectives on RLS-I.

[10] Any person or organization with a professional interest in RLS-I such as donors, military and politicians.

6. Analyze and synthesize the data and information gathered in relation to assessment purpose;
7. Draw conclusions and recommendations based on the findings;
8. Deliver an oral briefing based on preliminary findings to USAID/ODG;
9. Prepare a draft report and submit to ODG at USAID/mission.
10. Incorporate verbal comments and suggestions from USAID in a Final Report and submit to USAID/mission;

There are a number of milestones in this assessment. The timing of key deliverables is as follows:

DELIVERABLE	**DUE DATE**
Work Plan	Jan. 3
Oral Debriefings	Jan. 6 and 13
Draft Report submitted to USAID	Jan 17
Draft Final Report Submitted to USAID	End January

An overview of time-bound activities for this assessment is shown in the Work Schedule in Annex G. For a more detailed outline of assessment activity, see Annex B Daily Task Record.

5.0 FINDINGS & ANALYSIS

Our findings are reported according to the assessment team SOW in which 18 evaluative questions were posed. We have grouped these according to five main categories: project relevance, scope/scale, effectiveness, sustainability and impact. Under each sub-section below, questions pertinent to the section are shown in italics and the findings are shown in bold lettering, with evidence and analysis following.

5.1 Project Relevance

- *The project's intermediate targets[11] are to a] get CBDR mechanism operating more effectively and b] begin getting information to the local population on their legal rights, particularly women's rights, and how to obtain help in protecting their rights. The higher-level results are to improve stability in the pilot areas. Are these targets and pace of results anticipated in the contract reasonable given the current security situation? If not, do they need to be modified?*
- *Is the program triggering interest in the communities and if so how and why?*

CBDR can quickly 'fill a justice gap' in a recently pacified area and thereby prevent Taliban justice from regaining a foothold.

This project aims to meet the needs of locals in a recently pacified area for justice while at the same time meet COIN imperatives to prevent Taliban from reasserting its authority. Once an area has been 'cleared and held' by the military, and Taliban 'courts' removed[12], there is a justice vacuum. However, the formal justice sector is not able to fill the gap due to its very weak capacity. Deficiencies in the formal justice system are endemic – the assessment team was told that many 'state actors' lack suitable qualifications and training, and some are illiterate or semiliterate. Also, in many parts of the country the formal justice system is simply non-existent so CBDR is "the only game in town", at least for the foreseeable future. Furthermore, without boosting CBDR, an area that has recently been pacified will soon find the Taliban court 'system' infiltrating back or people seeking out the Taliban to administer justice in adjacent non-pacified districts. In the opinion of many persons interviewed, even minor strengthening of CBDR can help prevent a "teetering" area from reverting back to Taliban justice and influence.

There is an overwhelming preference for CBDR as a first course for justice.

The assessment team was told that in much of the country, especially in rural areas, as many as 95% of cases flow though CBDR. Furthermore, it was revealed that many state actors are somewhat embarrassed that people much prefer to use the informal route. Interestingly, the District Court Judge and Huqooq official we talked to were happy to be able to refer civil cases to CBDR to lighten their burden. Those interviewed like CBDR because it is low-cost, fairly expeditious, and the outcomes are mostly fair and balanced with decisions based on a deep understanding of community dynamics. Village Elders indicated that the general population has a great dislike for formal justice due to pervasive corruption and interminable delays, and the formal court system is oriented toward 'winners & losers' and retribution whereas CBDR emphasizes reconciliation, i.e., the Jirga seeks common ground in order to make peace. Another reason for locals to avoid the court system is that it is considered shameful in Pashtun society to take disputes to outsiders. They also did not like Taliban justice due to its brutality although it was swift.

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[11] By targets, we assume this to mean project objectives or 'intermediate outcomes'.

[12] It appears that Taliban justice was not so prevalent in the two pilot Districts in the South.

CBDR has been diminished over the years - severely in some areas.

To varying degrees, CBDR has been seriously undermined over a protracted period due to war, interference by power brokers and war lords, and imposition of 'Taliban justice'. Although severely weakened, this mechanism has proven resilient and has survived though in many areas lies dormant, and with proper support can quickly revive and thrive.

Communities in targeted areas have embraced the project's objectives and activities.

With respect to community interest and support for RLS-I, there is ample evidence that communities have warmly received this program, judging by the turnout at project events, and willingness of both males and females to participate on a regular basis. Although there is a counter-argument that the generous transport allowances provided to participants at project-sponsored events is a contributing factor to people's motivation to attend – in other words the stipends act as an incentive to participate.

Nonetheless, at the networking launch event in Jalalabad, 120 women Elders attended, while the launch of the Nangarhar Elders' Network in August attracted 82 persons and the 2nd meeting 100 persons. Discussion sessions regularly involve 25 persons.

Without exception, all beneficiaries and stakeholders interviewed, and focus group participants, expressed very positive views on the project, and some were even quite enthusiastic. TLO focus group participants in Nangarhar noted the practical value of RLS-I and one stated "it provides a foundation for bringing further positive changes to their communities". The general feeling was that RLS-I is in the words of a local citizen "in accordance with our culture and traditions" and" benefits the whole community".

Whereas those surveyed in the east by TLO thought RLS-I was one of the best projects they had ever seen, those in the south though there were better projects in agriculture.

Those interviewed had high regard for the project because it did not constitute "foreign interference" i.e. a donor trying to introduce alien concepts but instead is facilitating and enabling a cultural mechanism that in the eyes of Afghans shows respect and an appreciation for their traditional practices.

Those interviewed by TLO in the South and the East almost universally stated the project should be lengthened in order to have lasting and significant impact. Many districts adjacent to the pilot sites have also indicated an interest in having the project extend its activities to their areas – the TL was shown several letters of interest to support this claim.

5.2 Project Scale and Scope

- *Is there any evidence to suggest that the project's interventions could ultimately help improve stability in the pilot areas?*

The causal link underlying the project's design and strategy is clear and logical.

In terms of scale, the project wisely has selected two pilot districts in the South and two in the East to test the hypothesis or 'theory of change' that a donor project can have a positive development on CBDR.

It is widely accepted that a fully functioning informal justice sector reduces tension, conflict and violence in an area. The RLS-I project, through strengthening CBDR, is designed to bring greater peace into a key terrain District and thereby contribute toward the ultimate outcome - stability.

At the outset there was skepticism that outsiders could have little leverage on influencing traditional ways such as CBDR, but the assessment team considers the overall approach of RLS-I of strengthening CBDR and making people more aware of the law and legal rights as being sound and grounded and validated by field research undertaken by the project.

The project strategy for intervention is in our view coherent by focusing on institutional strengthening through networks and linkages, and capacity development through training and outreach. The project's direct intervention in conflict-resolution of major land disputes is more geared toward the pressing COIN imperative rather than strengthening CBDR per se.

To elaborate on the project's intervention strategy:

- There is capacity development of Village Elders - with equal emphasis on male and female elders - through workshop, seminars and discussion sessions to learn about Afghan and Sharia law related to dispute resolution (DR), and human rights including women's' rights, that will result in resolving disputes more aligned with the law, i.e., elimination of abuses and violations, as well as enhancing an Elder's prestige, status and authority in their communities;
- There is capacity development of the general public through outreach materials and broadcasts focusing on DR topics and issues to be better informed about the certain aspects of the law and therefore more supportive of CBDR decisions;
- There is institutional strengthening of the CBDR through networking of Elders to encourage sharing of experiences, ideas and information that may lead to opportunities for impartial 3rd parties to intercede in inter-tribal or inter-community dispute resolution;
- There is institutional strengthening through enhanced linkages with formal sector - to mutual benefit of both informal and formal – vis-à-vis standardizing referrals, creating system for formally recording Jirga decisions, establishing Working Groups of State actors and senior Elders to consider the formal-informal interface;
- And there is direct involvement by the project in DR to resolve major cases involving land and/or irrigation to quickly bring down the level of tension and conflict in an area – this so-called case-specific dispute resolution is needed to reduce the "plague of land-related disputes".

In addition to the intervention strategy, the overall approach to implementation of the project is rational and adheres to a fairly standard project cycle management approach:

- select a site in consultation with partners and stakeholders;
- research the site to understand community dynamics and power centers;
- develop a detailed and targeted action plan based on a thorough assessment of needs and conditions in an area;
- implement activities according to the plan;
- closely monitor project activities and outputs to establish progress and determine course correction as necessary;
- Capture all necessary information and data on a regular basis for analysis, interpretation and reporting purposes.
- And disseminate achievements and success stories.

The project is capable of rapid deployment in recently pacified areas.

With respect to entering new areas, the project got off to a slow start but is finding with newer Districts e.g. Dand, it can initiate activities much quicker. Project field staff claim they can now mobilize within two weeks of an area being 'cleared and held' by the military. The mapping and assessment is by necessity carried out with a low profile and without the usual branding in order to reduce the risk factor for staff and beneficiaries.

The basic model of strengthening CBDR is adaptable to unique circumstances.

In the process of conducting research, field teams will establish good working relations with all the players and to gain their trust and confidence. The assessments are critical not only to allow an understanding of the context but to allow for variances in conditions to be reflected in action plans and activities, i.e., to avoid the 'cookie-cutter' approach. This approach allows for the basic model to be tailored or customized to the different conditions prevailing among districts. Now the project has an opportunity to develop and test its qualitative research methodology, project staff are indicating that it is not necessary to carry out extensive community research but that this assessment exercise can be streamlined to about one month.

5.3 Project Effectiveness

5.3.1 Elders' Training

- *Has the project had any impact on increasing the desire of elders to know more about Afghan law? If so, have they taken any concrete action to acquire such knowledge?*

There is a strong demand/receptivity among Village Elders for knowledge of the law and legal rights.

All Elders interviewed indicated they are keen to upgrade their understanding of the law – as one Elder put it "we are thirsty for legal knowledge". In interviews, and in focus groups conducted by TLO in Nangarhar, project beneficiaries expressed a sincere appreciation for the opportunity to attend learning events and the practical knowledge they gained.

The feedback received from Village Elders interviewed was that topics presented in project training events are relevant to the usual cases being dealt with by Jirgas – for example property, family and inheritance law. Some indicated that they would have liked more handouts.

Workshops and seminars are delivered mostly by Law Faculty Professors and Mullahs who not only are 'subject matter experts' but as locals/Afghans and in positions of high regard can get the full attention and participation from those attending.

Some respondents in Kandahar did not think they would be able to apply in their communities what they had learned, and in the case of females, outside their families.

Almost all TLO focus group participants in Nangarhar and Kandahar highly praised project staff and some spoke of them with considerable affection.

The attendance at training sessions is commendable[13] although the transportation assistance rates need some explanation – a local person is currently given $10 but some

[13] The TL witnessed two training sessions in Jalalabad – one with 32 women elders and one with 24 men.

people get more as they move with bodyguard and driver, and a woman might move with a husband and/or brother. For provincial travel the amount can be much higher. The assessors were informed that rates are not subject to USG regulations but are set at the discretion of the Chief of Party (CoP). There does seem to be an opinion that the rates act more as an incentive to participate than as compensation for expenses incurred. Although this is not necessarily a bad thing as the project initially at least would like to encourage maximum participation as long as rates are not exorbitant and distorting the marketplace for donor training.

There are multiple benefits to training Village Elders that strengthen CBDR.

Benefits of training are numerous and include:

- Elders self-report that have more confidence in their abilities and decisions, and have become more professional as a result of participating in training.
- There are early indications that the knowledge gained in training is resulting in better CBDR decisions – for example, instead of handing over young girls people are now resorting to exchanging land or money to settle disputes. Key informants insisted that *baad* was on the decline in pilot districts, at least in the East, and this was supported by comments from the TLO focus groups in Nangarhar as well. Although the project may not be able to take credit for this it can certainly ensure the topic is given attention in training. It remains to be seen how much the overall quality of justice will be improved due to project interventions but it seems there will be less human rights abuses and violations of Afghan and Sharia law. In addition, TLO respondents said that *machalga* – a kind of bond used to ensure compliance in the Jirga system – was also disappearing in the pilot districts but to what extent could not be determined and what impact the project had on this is also debatable. .
- The project has been actively promoting the notion that criminal cases should not be dealt with by CBDR but always referred to the formal justice system, although Jirgas may get involved to foster reconciliation between families concerned irrespective of subsequent court punishments.
- The impression of the assessment team was that as a result of participating in project events, the status and prestige of the Elders was elevated and resulted in more credibility and authority thereby reinforcing traditional leadership structures.
- The workshops and seminars are also encouraging 'new thinking' to slowly modernize attitudes and mindsets though this is a longer-term endeavor.

5.3.2 Elders' Networks

- *The project is developing men and women elders' networks. Is it clear to the elders what the benefits of such networks might be?*
- *What achievements have there been in getting them started?*

There are multiple benefits to networking Village Elders that improve the efficacy of CBDR.

The Elders interviewed clearly appreciated the opportunity to meet with their peers. They indicated that networking forum enables them to share information and ideas, and exchange experiences or 'best practices'. The emerging networks are also a valuable support mechanism for participating Elders. The Elders' Networks also strengthen and support community leadership structures. With the setting up of higher-level Regional

networks, there is now a better opportunity to bring in impartial Elders from other areas to mediate in inter-tribal or inter-community disputes as "honest brokers" - now that the relations and trust have been established with Elders from other parts of the country.

A large numbers of elders from the communities in targeted districts are joining networks promulgated by the project. The numbers are impressive- in the East the project has organized 14 assorted events (network launch, workshops, seminars, and discussion sessions) for women since November. A list of women elders in the network shows 36 members in Behsood, 39 in Sukh Rod, and 21 in adjacent districts. In the East, the project has arranged 18 events since October for male elders involving approx. 300 individuals but repeaters (regular participants) about 150. In Arghandab District outside Kandahar since September, the project has organized 20 events and there are 45 male elders in a network, and 20 females. The vision for the women's network in Jalalabad is to have networks at village, district, provincial and region (eastern zone) levels.

In the south, the DG in Arghandab has attended several project events and, as a result, is now more comfortable referring cases to elders he knows through network. Also, elders are more comfortable asking for referrals and bringing decisions to the DG for signature and seal. As a result of this, less likely that disputes will re-open and all the pieces are in place for recording system – see below.

5.3.3 Linkages between Formal and Informal

- *The project proposes to improve the links between the formal and the informal systems. Has the project made any progress in improving such links, and do the results to date suggest that continued efforts in this regard could in fact achieve the objective?*
- *Has the project had an impact on the elders' thinking regarding the value or benefits of recording their decisions and transmitting them to official district level institutions? If so, have they taken any action to promote such?*

The project has strengthened and standardized the interface between the informal and formal justice sectors via-a-vis referrals, registering and working groups.

If disputants take their petition to a State actor as opposed to a Tribal Elder directly, then in almost all instances it is referred back to a TE in the village. For example, this is becoming standard practice in Arghandab, something which the IP has had a strong impact. A Jirga may still be called in criminal cases but from the perspective of family reconciliation – the State will punish the offender or guilty party.

The project is helping to promote the practice of preparing a written record of the ADR decision and registering it with the respective State authority whether huqooq for civil, family court or judge. As well, the Tribal Elders keep a copy and a copy of the decision is given to disputants. Procedures for registering are almost agreed with both parties with exception of the archiving question that still needs to be sorted out. The CoP mentioned that a manual was being prepared to capture the various registering procedures as a 'system'. In Arghandab, it is now more common to bring decisions referred to them by the DG back to the DG for sign/seal. The DG retains a copy, and there are now either 20 or 56 decisions waiting for a system of archiving to be developed, according to two different sources. Some key informants and focus group participants expressed a concern with *DG involvement* in referring, signing/sealing etc. The majority of respondents in the TLO survey in Nangarhar were open to registering Jirga decisions with the State, although a small minority objected to the idea as they felt the traditional system had always operated quite well outside of government. Rather than a sign of growing legitimacy for the traditional system, some people see this instead as government

interference or attempt to control CBDR. Many though view the linkage with the formal sector as increasing respect for the Jirga traditional system. Whatever the viewpoint, the increased involvement of the DG in Arghandab means that disputes are more likely to remain resolved rather than re-opening. Another advantage of the recording system is that data on recorded CBDR decisions can be analyzed later on to discern patterns and trends, and feed into future workshop topics.

In the East they have established a Working Group comprising State actors (judge, prosecutor, huqooq) and senior Elders to discuss topics around the formal-informal interface. Their first order of business was to discuss and agree on a registry system to record CBDR decisions with the state system. Once this is finalized, they will move on to other issues mutually affecting both sectors. This forum affords an opportunity for linkages to be fortified and working relations to be established.

In some circles there is a concern that building up the Jirga system is being done at the expense of the state system – it is seen as a zero-sum game, whereas others see complementarities between the informal and formal justice sectors, and many positive synergies to be leveraged.

5.3.4 Gender

- *It remains to be proven whether women can have any impact on CBDR mechanism and resolving disputes. Is there any evidence to suggest that the women's networks being developed might have a chance of having an impact on CBDR mechanisms or becoming involved in resolving disputes in their areas?*
- *Are there signs that the program is beginning to increase women's knowledge of their rights?*

The project has demonstrated that CBDR can provide concrete opportunities for female empowerment.

The assessment team had to rely on TLO interviews in the south to get a sense of the gender dynamics there. Pashtun society is ultra conservative and very restrictive regarding women's role in society. In the East, the TL was able to meet with many female Elders and project field staff, and determined that the attitude toward women's involvement in CBDR is quite progressive by comparison.

CBDR is viewed in some circles as "encouraging the abuse of women" and "trampling human rights". To address this, the project has deliberately started women discussion groups that aim to increase women's' role in CBDR and to better equip them to resolve disputes. The project is also addressing the notion of CBDR violations and human rights abuses through workshops and public outreach.

Key informants were repeatedly asked by the assessment team about 'pushback' from the men regarding women's increasing involvement in CBDR and they responded, surprisingly, that this was not observed both in the east and the south. However, the project has had to be aware of this possibility and proceed cautiously.

We were told in the east that women have an active involvement in CBDR at 4 levels;

- Within their families or extended families settling disputes.
- For 'women topics' such as domestic or marriage-related, women are able to form Jirgas and resolve disputes.

- Male elders told us, and also a Mullah, that women are consulted by men on a regular basis and that their advice is sought and respected – the backroom influence.
- A few highly respected and influential women in Nangarhar sit with men on Jirgas on a regular basis – the TLO was provided with their names – and they have been used as speakers and role models in project events. There is at least one woman in Paktika province who also has the same status.

Interestingly, none of the TLO survey participants in Kandahar had heard of any female sitting in on a Jirga. In Nangarhar, on the other hand, TLO respondents had heard of women being included in Jirgas, and credited RLS-I with making some male elders aware of women's' rights. Kandahar respondents did not think that the project could impact women beyond their immediate families.

The program is beginning to increase women's knowledge of their rights.

Female participants in the TLO focus groups in Nangarhar felt they were now aware of women's rights and had been given the tools to participate in public life. According to one female respondent "we now have the courage and ability to solve the problems of our sisters". Many women from the East indicated that the project was empowering but in the South women in the TLO focus groups were not so enthusiastic and said they could only apply what they had learned in their homes. Both male and female participants in Nangarhar had heard of a recent case whereby a woman who had received training through RLS-I and intervened in a conflict and brought the parties to a settlement.

The project is actively promoting women's rights through events and outreach. Women elders attend events organized by the project to learn about inheritance and property law. Women elders interviewed expressed an appreciation for this newly acquired knowledge about their legal rights and as a result were more confident and felt enabled. The general public are made more aware about women's rights though radio and TV broadcasts sponsored by the project.

5.3.5 Community Cultural Centers and Legal Outreach

- *What benefits do the villagers see in the legal information centers?*
- *To what extent are they using them? How are they using them?*
- *Are there aspects of the legal information centers that are having more impact than others/ if there are weaker components, do the results to date suggest that they should be discontinued?*

There was mixed success with project legal outreach and awareness activities.

The mandate of Community Cultural Centers (CCCs) established prior to the project is to act as a sort of 'change agent'. Their programming is typically involved with civic matters and is either cultural in nature (poetry reading), language-related (literacy) and/or youth-oriented.

In addition to the 3 pre-existing CCCs in the pilot districts, the project has helped establish 3 new CCCs in Jalalabad, Arghandab and Dand. All of the six CCCs are being assisted with project material [$10k each[14]] and TA support to professionalize and build their capacity in legal outreach, i.e., to become legal information centers.

[14] Various digital equipment for recording and broadcast purposes.

The project has attempted to embed a 'legal component' in the CCCs to support the CBDRs by print materials, radio and TV. RLS-I has produced legal outreach materials (comics, pamphlets and stickers) and disseminated them through the Community Cultural Centers. To date, the project has distributed 120,000 booklets (6 different types), 21,000 pamphlets (7 different versions), and 14,400 stickers (12 different versions) and trained 18 CCC volunteers.

More recently, the project is tying material and broadcasts closer to CBDR. Until project research could uncover key issues within the informal justice sector, the project initially promoted generic legal information more linked to the formal justice sector. An example of closer alignment of outreach materials with project purpose are the comics: one issue is currently at the printers and deals with '*baad*'; one is being developed and deals with 'women participation in Jirgas'; and one is planned that will address 'forced marriages'.

The CCCs have produced numerous radio shows and TV dramas for the project that have been broadcast and re-broadcast by the CCCs on the project's behalf.

With respect to distribution channels, the assessors were told that in the cities there are many TVs and it is a powerful medium to reach citizens. Outside the cities those without TVs (and electricity) have radios so are able to listen to talk shows sponsored by the project, especially for women 'stuck' at home. The publication/comics were useful for all persons but particularly those without radios and TVs, and children at school.

In looking at benefits in this component, there is a need to distinguish between CCCs as a (community development) institution and the legal outreach efforts of the project.

The feedback from persons interviewed who are familiar with the project and its legal outreach effort, i.e., the key informants, is that the mass media pieces are well produced and of high quality and the message is clear and culturally appropriate[15].

Feedback from the general public on CCCs is somewhat mixed. Many TLO focus group participants in Nangarhar stated they had not heard of CCCs, while a few reported they had used their facilities for Jirgas or other community meetings. TLO focus group participants in Arghandab stated the CCC was "a complete failure" likely due to the fact that it located at the District Center within the office of the DDA Shura Head and as such accessibility is very limited, particularly for women who cannot be seen to enter the District Center as it is attached to the Forward Operating Base.

Unfortunately in materials and broadcasts, there is no affiliation with the project nor USAID branding (the requirement is waived) so people surveyed by TLO may not be able to associate the material and messages with the project. Furthermore as far as we can deduce there has been no real effort by IP to determine whether messages put out through mass media are reaching their audience.

The budget allocated to this component was modest (i.e. $240,000 of which $60,000 was set aside for CCC material support).

5.4 Project Sustainability

- *Is there evidence these elders' networks could be sustainable after the end of the project?*
- *Does the project have a sustainability plan for these centers? If so, is it realistic?*

[15] Storylines are developed through a process involving internal project staff and Elders focus groups.

Some aspects of the project are characterized by sustainability while others are questionable.

The design of the project is primarily centered on strengthening a pre-existing structure and affiliated processes and as such project initiatives to support CBDR will be sustained after the project is completed. The informal justice system has been around for a very long time and is well embedded in the fabric of Afghan society. CBDR functions effectively though traditional instruments such as the *Waak Khat* (a pledge whereby disputants agree beforehand to abide by the decision of the J*irga*) and *Machalgha* (whereby disputants give a sum of money to a *Jirga* that is returned after they accept the outcome

As regards Village Elder networks, the project is not forcing their formation artificially – it is merely arranging events and participants are naturally engaging with each other out of common interest. Certainly local networks will be sustainable as travel distances and cost are minimal as evidenced by the fact that in the south, elders report that they meet together at the village/cluster level without being organized by IP. For regional networks requiring greater travel/effort and expense, there is a question of where will the money come from to pay for this. Long-term survival of these networks is doubtful but these are built more for COIN purposes than long-term development i.e. to address long-running intractable 'legacy' disputes.

The CCCs are useful to the project as outreach partners and as channels of distribution. With respect to the sustainability of the CCCs, the project does not contribute to their running costs but did provide some start-up funds to the new ones for furnishings, and all CCCs received modern digital equipment. The project is currently financially supporting the CCCs by sponsoring specific radio and TV spots. Whether the withdrawal of this activity will financially decimate the CCCs is unknown. The fact that CCCs are run by volunteers and usually in donated premises means their operating costs are negligible so concern about their financial survival may be unwarranted[16].

5.5 Project Impact

- *Regarding all of the above, questions, are there differences in the results between the south and east, or between very kinetic and less kinetic areas?*
- *Are there signs of results in the most kinetic areas that suggest that continued efforts in these areas are worthwhile and could eventually achieve increased stability?*
- *In any future design of this or similar project, are there considerations or results to date that suggest a need for a change in strategy? If so, what possible changes?*

The project is showing many positive developments after only six months of activities.

- TLO survey respondents in Nangarhar and Kandahar did credit RLS-I with a number of positive institutional enhancements to the Jirga system that have improved its operational effectiveness.
- The achievement of so many early results (at the output level in terms of workshops for learning, events for networking, initiatives for linkages and outreach materials and broadcasts) is especially remarkable considering that the first two months of project implementation was centered on researching CBDR in

[16] In a previous USAID-funded ROL project – AROLP – 34 centers were established and still exist today.

the communities, and that the project is operating the pilots in a challenging conflict-affected environment.

- There are also unanticipated outcomes – one is the 'spillover' effect from the project into neighboring areas such that requests are coming in to extend the project into their adjacent districts. This points to a future organic growth of the project, if a decision is made to expand the scope, as opposed to an 'ink spot' type expansion plan.

The precise extent and nature of project achievements at the 'intermediate outcome' level cannot be determined at this time.

Because the project is beginning to produce a wide variety of deliverables in terms of its training, networking, linkages and outreach activities[17], we can say with some confidence that the CBDR mechanism is being supported and strengthened. However, we cannot say to what extent CBDR has been reinforced as the PMP has serious deficiencies. A more rigorous PMP at the outset of the project would have forced critical thinking on indicators and outcomes[18]. The project has not clarified precisely what and how to measure at the intermediate outcome level in order to properly track progress and assess results. This is why the project is not able to communicate its achievement of project objectives. For example, it is unclear whether the project is effective at getting information to local population on their legal rights. As far as we can deduce, there has been no serious attempt by the IP to track this and take any corrective measures to improve outreach impact. It is only since the project hired a full-time Monitoring and Evaluation Specialist in late September 2010 that activity tracking has become evident.

In fairness, it is somewhat premature to look for the realization of intermediate outcomes after only 6 months of project operations but nonetheless the results-based framework for this project is not well-defined.

The achievements of the project varied significantly between the South and East.

Between the south and east in Afghanistan, it seems there are marked differences with respect to CBDR.

- To varying degrees, CBDR has been sorely diminished after 30 years of fighting, interference by power brokers and war lords, and intimidation and threats by the Taliban. Strengthening CBDR therefore may have different meanings – in the East it means reinforcing CBDR while in South it means reviving the mechanism.
- There is a greater tendency for district government in the South to get involved in CBDR and even to try and control it, whereas in the East there was no mention of the executive branch of government i.e. District or Provincial Governor involvement.
- In the South conservative values are pronounced regarding the role of women and this limits their involvement in CBDR. The project encountered stereotypical attitudes such as "women can't be decision-makers".
- There is also a distinct lack of freedom of movement by project staff [international and national] and beneficiaries/participants in the less permissive key terrain areas.

There are several critical success factors for the project

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[17] It is too early to claim this for case-specific conflict resolution.

[18] See Draft Performance Based Management [PBM] System paper, April 2010, p. 4-5.

Critical success factors for the project hinge on the Afghans-only principle[19] adopted by the project and include the following:

- The project's close consultation with beneficiaries and stakeholders in determining project strategy, priorities and activities.
- The field team's qualifications and experience – they are familiar with local mores and practices, possess extensive community development experience and have established networks of contacts in districts.
- Only local Afghan staff has direct contact with communities and Tribal Elders, though international staff may have limited engagement with state actors such as judges, prosecutors and huqooq.
- Legal outreach materials and broadcasts are designed to be culturally sensitive and appropriate.

[19] This is a variation of the *Afghan-led* and *Afghan-first* principles promulgated by the donor community .

6.0 CONCLUSIONS

Conclusions are presented below and arise from the findings outlined in the previous section.

- Recently pacified areas find a justice space due to removal of Taliban courts. Through a rapid assessment followed by speedy implementation of activities in learning, networking, linkages and outreach, as well as direct intervention in larger intractable de-stabilizing disputes, the CBDR mechanism is strengthened. This not only diminishes Taliban influence by eliminating the need for their judicial presence but also rapidly brings down the level of violence and conflict in the communities in targeted areas. There is a strong honor code and pride among tribes in Afghanistan that fuels confrontation but CBDR can "break the cycle of violence". The project demonstrates that there is no dichotomy between short-term COIN imperatives and longer-term developmental goals.
- There are many valid reasons why Afghans much prefer the informal justice system over the formal sector in much of the country and over Taliban 'courts' in key terrain areas.
- For a number of reasons, CBDR mechanism has been seriously eroded over the years though not disappeared as a cultural practice it is well entrenched in the fabric of society.
- The project intervention's four integrated components are persuasive and logical:
    - building the knowledge, confidence, prestige and authority of Village Elders whose power was emasculated by the Taliban;
    - increasing public awareness about the law and their rights through outreach materials and broadcasts bearing in mind the high illiteracy rate;
    - -strengthening the structure of CBDR through linking Tribal Elders together and through linking the formal and the informal justice sectors;
    - achieving a 'quick win' in terms of speedily reducing tension and violence by tackling major disputes head on.
- The project's implementation approach is coherent.
- Although off to a slow start, the project is now in a position to quickly mobilize its field teams and enter into a recently pacified area in support of stabilization.
- Carrying out research in targeted areas means that any intervention will be more intelligently designed. The research also takes into account variances between districts and reflects this in the Action Plan prepared such as the recent one done for Dand District.
- Village Elders are very appreciative of the training provided through the project and the delivery is seen as practical and culturally sensitive. However, the extent to which the learning is later applied cannot be determined at this time and may not be applied outside of families for women in the south.
- In theory, the benefits of training are numerous and considerable – improved decision-making by Elders, fewer violations of the law and less human rights abuses, ensuring criminal cases go to formal court system, more prestige/status for Elders that enhances their authority in their communities and reinforces traditional leadership structures. However, it remains to be seen to what extent these improvements and changes can be attributed directly to the project. Certainly, early signs are that the project is contributing positively to these improvements based on anecdotal evidence coming from key informants and focus groups.

- State actors and Village Elders are predisposed to cooperating on strengthening ties between the two sectors and recognize it is in their mutual interests to do so. Considerable progress has been made her with respect to determining procedures for referrals, recording of CBDR decisions and establishing Working Groups to push the collaborative agenda further.
- The project's approach of initially targeting male elders to make sure there is no 'pushback' on working with women elders is prudent given the nature of the society, and ensures that efforts at stabilization through strengthening CBDR are not undermined. If handled properly, support by men for a greater role for women in CBDR can be engendered and maintained. Women are well-known as peacemakers and are good at defusing 'hot' situations – many disputes start out over petty quarrels and then quickly escalate into serious situation characterized by injury or even death.
- The CCC inside Arghandab District Center is a totally inappropriate location due to restrictions on accessibility and may be no longer justified as residents of Arghandab state they now have more freedom of movement since the military campaign saw off the Taliban two months ago.
- The ability for regional Elders' networks to address case-specific 'legacy' issues is unproven at this time as these networks are in the formative stage.
- Though efforts at legal outreach and quality of associated mass media pieces are commendable, it is not possible to say whether the general public in pilot districts is actually receiving and/or understanding these legal messages, and this is translating into more support for CBDR.
- Supporting a pre-existing alternative justice mechanism - CBDR - bodes well for sustainability, especially as no major reforms to structure and process are planned.
- Some of the higher-level elders' networking may atrophy after donor support is gone but networks at the local level will likely survive.
- Three pre-existing CCCs are surely on a more sound financial footing due to their longevity but the financial situation of the new CCCs set up by the project is an unknown.
- The project is lacking in 'granularity' - there are inadequate metrics for progress monitoring and assessing results. Project baselines are weak and clear benchmarks are lacking.
- Achievement of so many early results is remarkable considering that the first two months of project implementation was centered on researching CBDR in the communities so many activities only began October/November, and also considering that the project is operating the pilots in a challenging conflict-affected environment
- Despite differences in operational conditions, the project can still achieve results in the South but obviously to a lesser extent than in less kinetic areas in the East. In other words, it is still possible to contribute to increased stability in the South but at a slower pace than in the East.
- The project is breaking new ground in looking for ways and means to best strengthen CBDR and their innovative programming could be viewed as a new model for supporting the informal justice sector. The curriculum and learning materials, and methodologies and tools developed by the project, are certainly a valuable resource.

7.0 RECOMMENDATIONS

Based on the Assessment Team's findings and analysis, this section makes recommendations as follows:

7.1 Overall recommendation: continue supporting CBDR but with conditionalities

- The overall recommendation is that CBDR strengthening support should continue as the mechanism can be rapidly revived through donor intervention to fulfill needs of a recently pacified community for justice while at the same time help prevent the Taliban from re-establishing themselves[20]

7.2 Priority areas for current RLS-I project up to and including a 'bridging' phase.

Suggested priorities during remaining period of current program include the following:

- Going forward, it may be more appropriate to use the term assessment and not research, and without diminishing the importance of assessment, reduce the amount of time allotted to this activity to 4 weeks, i.e., streamlining.
- The project should carry out surveys of training participants to assess whether the legal knowledge is being applied in their communities and how it is being used and to what extent.
- The project needs to draw the casual connection between its training activities and outcomes in terms of increase justice quality, reductions in abuses and violations, enhanced traditional leadership structures, i.e., measure the changes taking place within the informal justice system including decisions being made and in status and credibility of participating Village Elders.
- The project should look for more ways to build and strengthen the linkages between the formal and informal justice sectors.
- The project should not focus entirely on male elders as this will reinforce male dominance and not address women's exclusion from CBDR. Women's involvement and participation in CBDR needs to be increased to improve their access to justice and for gender equality.
- The CCC inside Arghandab District Centre should be relocated to one of the major villages since the security situation has improved, after a re-examination of the security situation that seems to have improved and warranted such.
- The project should carry out surveys of the public in the pilot districts to determine whether legal outreach efforts are effective and distribution mix is optimal, i.e., reaching their target audiences, and as a result local population are more aware of the law and their legal rights, and if this translates into more support for CBDR decisions.
- As the project continues to facilitate and enable the informal justice system structure and processes it needs to push at the same time for legal content

[20] Although the assessment was not asked to consider value-for-money, relative to many projects in Afghanistan, the funds invested by USAID in this initiative are quite modest. The project is not "handing out goodies" nor is it characterized by "spend and hire", and the procurement or material support for the 'counterpart'/CCC and for the beneficiary/Jirgas is negligible.

‘reforms’ to address abuses in the area of human rights, especially women’s’ rights, and any violations of Afghan/Sharia law., but with a good understanding of the cultural context.

- The project should study the utility or value of regional Elder’ Networks (likely to disappear after USAID support is gone) and if appropriate solicit for support funding on their behalf or persuade other donor projects to continue this support.
- The project needs to thoroughly test various approaches for conflict resolution of intractable ‘legacy’ disputes.
- The project should assist each CCCs develop a sustainability plan.
- The project needs to prepare a comprehensive PMP as soon as possible that establishes what indicators are significant to generate meaningful information and data, and how to capture or measure these, as well as appropriate baselines and benchmarks.
- Project activities in the South are still considered worthwhile producing results, even though operating in a difficult environment. However, adjustments must be made to expectations regarding the nature and pace of results. The project needs to write up the innovative ‘model’ as a toolkit including an updated work plan, an operating manual to include all curriculum, materials, methodologies and tools, and an M&E handbook for future replication. Once ‘packaged’, the streamlined model will produce quicker results.
- The project needs to communicate experiences and disseminate success stories, and in particular apprise stakeholders of results at the intermediate outcome level.

ANNEX A: SCOPE OF WORK

SCOPE OF WORK

1. **Statement of Work**

Evaluation of the Rule of Law Stabilization Program (Informal Sector)

Introduction:

USAID awarded Checchi Consulting (Checchi) a one-year contract to implement the Afghanistan Rule of Law Stabilization Program (Informal Component) (RLS-I). The duration of the contract is from March 19, 2010 to March 18, 2011.

RLS-I is a five-component project. The first component, the flagship of the project, consists of activities in the pilot project sites. The other components are support for mapping community-based dispute resolution and the formal justice sector (second component), legal defense (third component), public outreach and education (fourth component), and national policy development (fifth component).

This evaluation, which is mentioned in the contract, will focus on the project's first and fourth components. Originally intended to steer project implementation beyond the sixth month point of the twelve-month contract, the purpose of this evaluation now is principally to inform the decision of whether to continue work in the informal justice sector beyond the termination of this project, and, if so, how to design this work. To a lesser extent, it will provide guidance on any adjustments that need to be made in the final few months of the project.

Background:

Engaging with the informal justice sector is a recent development in the international assistance community. In the last decade, there have been several studies done of informal justice systems in Africa, Latin America, and Asia, but few donors have taken the next step and have engaged with these systems. The United States (US) and the United Kingdom (UK) are perhaps the first to have done so with their work in Afghanistan.

Informal justice sector programming by the US (funded by the State Department's Bureau of International Law Enforcement and Narcotics Affairs and implemented by the US Institute of Peace through a sub-grant to The Liaison Office) and the UK have focused, at least to some extent, on developing new structures which seek to link the informal and formal justice sectors.

In contrast, the USAID contract with Checchi does not focus on the development of new linkage structures. Rather, its thrust, according to the contract, is to "promote and support the informal justice system in key post-conflict areas" as a way of improving stabilization. Although the contract suggests activities within the scope of this direction, such as the recording of decisions made by CBDR (community-based dispute resolution) mechanisms, it highlights the need for an assessment and action plan "based on the specific circumstances found." This is an implicit acknowledgment that, to a large degree, the methodology for promoting or supporting CBDR in the pilot project sites depends on the specific context of the sites.

At the same time, the contract strives to more broadly increase access to justice by requiring legal education and outreach to educate the population about their legal rights under the Afghan Constitution. As suggested by several performance indicators outlined in the contract and the tasks listed, the intent of the contract is also to eventually increase use of the formal system in the pilot project sites.

After careful deliberation with GIRoA officials, the military commands, PRTs, and USAID, Checchi designated Arghandab and Dand as the first two pilot project sites in the south and Behsood and Surkh Rod in the east. Checchi began work in Arghandab, Behsud and Surkh Rod in May 2010, and those assessments were available initially in summary form and, in November, in final form as were the accompanying action plans. It began its assessment of Dand in October 2010, and it is not yet completed. Its assessment in Qarghahi'i in Laghman province and Kuz Kunar in Nangarhar province, begun in October 2010, are not part of this evaluation.

Evaluation Questions:

In reviewing the two components of this project, the evaluation team will not be assessing Checchi's performance per se but, rather, the results of the project thus far, so as to assist USAID in determining whether or not the project is having sufficiently positive results, with the possibility of achieving the long-term desired results, to warrant continuation in a follow-on project and, if so, in what recommended form. Specifically, the evaluation should answer the following questions:

1) The project's desired intermediate targets are to get CBDR mechanisms operating more effectively and begin getting information to the local populations on their legal rights, particularly women's rights, and how to obtain help in protecting their rights; the higher level results are to improve stability in the pilot areas. Are these targets and pace of results anticipated in the contract reasonable given the current security situation? If not, do they need to be modified?
2) Is there any evidence to suggest that the project's interventions could ultimately help improve stability in the pilot areas?
3) Is the program triggering interest in the communities and if so, how and why?
4) The project is developing men and women elders' networks. Is it clear to the elders what the benefits of such networks might be?
5) What achievements have there been in getting them started?
6) Is there evidence that these elder networks could be sustainable after the end of the project?
7) It remains to be proven whether woman can have any impact on CBDR mechanisms and resolving disputes. Is there any evidence to suggest that the women's networks being developed might have a chance of having an impact on CBDR mechanisms or becoming involved in resolving disputes in their areas?
8) Are there signs that the program is beginning to increase women's knowledge of their rights?

9) The project proposes to improve the links between the formal and informal systems. Has the project made any progress in improving such links, and do the results to date suggest that continued efforts in this regard could in fact achieve the objective?
10) Has the project had an impact on the elders' thinking regarding the value or benefits of recording their decisions and transmitting them to official district level institutions? If so, have they taken any action to promote such?
11) Has the project had any impact on increasing the desire of elders to know more about Afghan law? If so, have they taken any concrete action to acquire such knowledge?
12) What benefits do the villagers see in the legal information centers?
13) To what extent are they using them? How are they using them?
14) Are there aspects of the legal information centers that are having more impact than others? If there are weaker components, do the results to date suggest that they should be discontinued?
15) Does the project have a sustainability plan for these centers? If so, is it realistic?
16) Regarding all of the above questions, are there differences in the results between the south and the east, or between very kinetic areas and less kinetic areas?
17) Are the signs of results in the most kinetic areas that suggest that continued efforts in these areas are worthwhile and could eventually achieve increased stability?
18) In any future design of this or a similar project, are there considerations or results to date that suggest a need for a change in strategy? If so, what possible changes?

It is expected that the evaluation will differentiate between findings, conclusions, and recommendations in answering these questions for the two components.

Existing Performance Information:

The following written work products should be reviewed during the course of the evaluation: the contract, work plan, monthly reports, draft performance monitoring plan, assessments and action plans for Arghandab (in the south) and Behsud and Surkh Rod (in the east), and public outreach material.

Research Design and Methodology:

The evaluation team should use rapid appraisal methods, given the short period of time it has to complete its tasks and the general lack of quantitative data available. Methods may include key informant interviews, focus groups, community interviews, direct observation, and mini-surveys. As the evaluation will take place in some of the highest risk areas in Afghanistan, security considerations will greatly complicate this evaluation and make gathering information extremely difficult and in some cases impossible. In particular, as the US government employees on the evaluation team may be unable to participate directly in many meetings outside the military compounds, considerable reliance may have to be placed on the contractor to report back to these individuals on his/her findings. A local NGO will be contracted to gather information and conduct interviews in areas where even the contractor cannot go, particularly at the village level.

Deliverables:

1) Proposed research design and methodology and work plan, day 4 (arrival in Afghanistan);
2) First draft of evaluation report, day 18; and
3) Final draft of evaluation report, day 21 (not including time period for comments on first draft).

Final Report:

The final written evaluation report in English will include:

- An Executive Summary
- An explanation of the methodology used and field work done
- Findings, supported to the extent possible by relevant quantitative and qualitative data
- Conclusions – Evaluators' interpretations and judgments based on findings
- Recommendations – Proposed relevant and practical actions for management based on clearly supported conclusions
- Unresolved issues, if any

Personnel and Level of Effort:

The evaluation team will consist of an international team leader with Afghanistan-specific evaluation experience, and two USAID team members with experience in rule of law. They will be assisted by a local NGO which will field teams of local Afghans, 2 men and 2 women, in Kandahar and in Jalalabad, to gather information in the four pilot districts and report their findings back orally to the 3-person core team and, subsequently, a brief written summary of their findings in English. Logistics permitting, a 4th core team member may be added. The level of effort for each follows:

1) Team leader (international consultant) – 2 days preparation, 4 days international travel, 9 days in field, 5 days writing, and 2 days finalizing report.
2) 2 USAID Team members – 1 day preparation, 9 days in field, 2 days writing.
3) 8 NGO team members (4 in the east, 4 in the south) – 2 days preparation, 3 days in field, 1 day writing, 1 day translation.

Expatriate Consultant Team Leader – The Team Leader shall be responsible for coordinating evaluation activities and ensuring the production and completion of the evaluation report, to conform to this Scope of Work. He or she must have substantial experience managing and leading evaluations of complex democracy and governance and/or justice reform programs. He/she must possess excellent writing and interpersonal skills and must be familiar with USAID programs, objectives, and reporting requirements. At least 10 years of experience in the overseas evaluation field is required, and experience in Afghanistan and rule of law will be highly advantageous. An advanced degree in some field relating to overseas development work is required.

Work Plan:

Logistics for the international contractor in the field will be provided by Checchi Consultants. The work schedule must be pre-determined, as follows:

Day 1-2	Review materials
Day 2 (evening)	Fly to Afghanistan
Day 3	Transit Dubai
Day 4	Arrive Kandahar
Days 4-7	Field trips Kandahar region
Day 7 (afternoon)	Fly to Kabul
Day 8	Off day
Day 9 (morning)	Fly to Jalalabad
Day 9-11	Field trips Jalalabad region
Day 12 (morning)	Return to Kabul and meetings in Kabul
Day 13-14	Report writing

Day 15	Off day
Day 16-17	Report writing
Day 18	Delivery of draft report
Day 19	Oral debriefing of draft report
Day 21	Delivery of final report and depart Kabul for Dubai
Day 22	Flight returning home

ANNEX B: DAILY TASK RECORD

DAILY TASK RECORD		
LoE	**Date**	**Main Activities**
1	Dec. 27	Preparation – review relevant literature and project materials forwarded
2	28	Discuss in-country logistics with Checchi, make international travel arrangements
3	29	Travel to Dubai overnight
4	30	Travel Dubai to Kabul
x	31	Off Day
5	Jan1	Orientation by Acting CoP and review logistics, planning meeting with USAID/ROL reps. Interview ROL Advisor Jalalabad C. Boeder, D. Smith, W. Hashimi Public Outreach,
6	2	Travel to Kandahar. Planning meeting with Don Chisholm at KAF.
7	3	Write up interview notes. Interview Shafiq Zaia.
8	4	Arghandab District Centre interviews – DDA Shura head, DG, District Elders
9	5	Arghandab District Centre interviews – judge, TLO, provincial Elders, USAID D&G rep.
10	6	Return to Kabul. De-brief USAID/ROL on preliminary findings.
x	7	Off Day [interview RLS-I CoP]
11	8	Travel Jalalabad. Meet TLO survey team and visit Community Cultural Centre.
12	9	Interviews Jalalabad. District Elders x2 groups., ILDG Shura Elders.
13	10	Interviews Jalalabad. Women Elders x 2 districts. 3 Hiqooq. PRT State rep. ROL
14	11	2nd meeting RLS-I female staff. Return to Kabul. USAID/mission re. contracting.
15	12	Analyze and synthesize data and information with Assessment Team at mission
16	13	Formulate conclusions and recommendations. Make oral presentation to USAID/mission.
x	14	Off Day
17	15	Write draft report incorporating feedback on briefing/presentation
18	16	Continue writing report with team input.
19	17	Complete draft report and submit USAID. Leave Kabul.
20	18	Travel to Home Base
21	End Jan	Incorporate written USAID comments on draft report into final version.
22	End Jan	Submit Final Report to USAID/ROL

ANNEX C: MAIN DOCUMENTS REFERENCED

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ANNEX D: INTERVIEW GUIDE

This guide was used by the assessment team when interviewing 'key informants' to aid in questioning and not as a questionnaire to be completed and collated

Afghan Rule of Law Stabilization program (Informal Component) Pilot Projects Assessment
Checchi & Co. Consulting
KEY INFORMANT SURVEY
INTERVIEW GUIDE

Purpose

This Interview Guide contains semi-structured questions and serves as a 'checklist' for interviewing 'key informants' in the field either individually or as a small group.

Questions:

- *The project's intermediate targets are to a] get CBDR mechanism operating more effectively and b] begin getting information to the local population on their legal rights, particularly women's rights, and how to obtain help in protecting their rights. The higher-level results are to improve stability in the pilot areas. Are these targets and pace of results anticipated in the contract reasonable given the current security situation? If not, do they need to be modified?*
- *Is there any evidence to suggest that the project's interventions could ultimately help improve stability in the pilot areas?*
- *Is the program triggering interest in the communities and if so how and why?*
- *The project is developing men and women elders' networks. Is it clear to the elders what the benefits of such networks might be?*
- *What achievements have there been in getting them started?*
- *Is there evidence these elders' networks could be sustainable after the end of the project?*
- *It remains to be proven whether women can have any impact on CBDR mechanism and resolving disputes. Is there any evidence to suggest that the women's networks being developed might have a chance of having an impact on CBDR mechanisms or becoming involved in resolving disputes in their areas?*
- *Are there signs that the program is beginning to increase women's knowledge of their rights?*
- *The project proposes to improve the links between the formal and the informal systems. Has the project made any progress in improving such links, and do the results to date suggest that continued efforts in this regard could in fact achieve the objective?*
- *Has the project had an impact on the elders' thinking regarding the value or benefits of recording their decisions and transmitting them to official district level institutions? If so, have they taken any action to promote such?*
- *Has the project had any impact on increasing the desire of elders to know more about Afghan law? if so, have they taken any concrete action to acquire such knowledge?*
- *What benefits do the villagers see in the legal information centers?*
- *To what extent are they using them? How are they using them?*
- *Are there aspects of the legal information centers that are having more impact than others/ If there are weaker components, do the results to date suggest that they should be discontinued?*
- *Does the project have a sustainability plan for these centers? If so, is it realistic?*
- *Regarding all of the above, questions, are there differences in the results between the south and east, or between very kinetic and less kinetic areas?*
- *Are there signs of results in the most kinetic areas that suggest that continued efforts in these areas are worthwhile and could eventually achieve increased stability?*
- *In any future design of this or similar project, are there considerations or results to date that suggest a need for a change in strategy? If so, what possible changes?*

ANNEX E: TLO SURVEY REPORT SUMMARIES

NANGHAR (EAST)

During the week of Sunday, December 26, 2010, The Liaison Office conducted a number of focus group discussions in Behsood and Surkh Rood Districts in Nangarhar province, for the purpose of evaluating Checchi Consulting's Rule of Law – Stablization I (RLS-I) program. These interviews showed the following:

- Almost all program participants, both women and men, rated highly the knowledge they gained during the RLS-I program, and would like to see the program extended to more participants and for more time. They also praised program staff, although many wished that the program had provided more material resources.
- In contrast to Kandahar participants, Nangarhar interviewees also rated the practical value of the RLS-I program highly, and stated that it provided a foundation for bringing further positive changes to their communities. Women especially felt they had been given the tools to participate in public life.
- Respondents, in turn thought that RLS-I had helped reduce corruption in their areas, and improved respect for the traditional system. Most respondents, in turn, were open to registering jirga decisions with the state, although a distinct minority objected to the idea.
- Finally, Community Cultural Centers have been a mixed success at best. Most respondents had not heard of them, but a few reported using them, including for jirga or other community meetings.

As above, all respondents had heard of the program, and mentioned inheritance law training more than any other aspect, indicating that attendance there was particularly widespread. Nevertheless, respondents did report varying levels of program participation. Some stated attending 4-5 workshops, while others seem to have only attended 1-2. Varying enthusiasm does not seem to account for this pattern: rather, because the workshops took place over a short amount of time, some people were simply not able to schedule attendance (Responses to Question 4). Thus interviewees stated, almost universally, that the program should be lengthened, and involve more people (Responses to Question 6). In particular, a number of focus group members stated that including ulema in future trainings would be desirable, as they often settle disputes in the area (Responses to Question 5).

Virtually all respondents mentioned undergoing training in inheritance law. Female respondents seemed particularly happy about this training, and the awareness they gained regarding women's rights (Responses to Question 3-4). They also clearly felt they benefitted from receiving training in mediation and conflict resolution. Said one female respondent, "Now we have the courage and ability to solve the problems of our sisters" (Responses to Question 8). Both female and male participants recalled a recent case in which a woman, who had participated in an RLS-I workshop, intervened in conflicts and brought the parties to a settlement (Responses to Question 11). However, no female respondents mentioned being allowed to sit on jirgas themselves, or female jirgas starting in the area. Thus the empowerment they mentioned seems to have been more individual than institutional, at least at this point.

That being said, respondents did rate the practical value of the program highly, in contrast to their more skeptical Kandahar counterparts. They also spoke well of program staff,

although they thought RLS-I would benefit from a more substantial physical infrastructure. For example, respondents stated that, whereas agricultural programs only benefitted those who directly received aid (female respondents seemed particularly displeased with some agricultural programs that had distributed chickens), training in dispute resolution would provide value for the entire community. As one interviewee said, "[Some] other programs or projects provide materials benefits to a specific community. But this program is according to our culture and traditions. It provides spiritual benefits, which [have] positive effects on the community as a whole" (Responses to Question 8).

For this reason, respondents tended to think RLS-I better than many other programs in their communities (Responses to Question 11). And women seemed to credit these practical benefits as much as men did: no woman reported being unable to participate in the program, or being restricted from taking part in RLS-I outside her home. Indeed, as above, women stated that they tended to find the program empowering, and that they would now be able to solve problems in their communities, and more generally contribute to community life in a meaningful way (Responses to Question 12). And, although not all respondents had had extensive contact with RLS-I program staff, those that had spoke highly of them. Interviewees also displayed considerable admiration for their workshop instructors. The only consistent complaints were over a perceived lack of material resources: respondents wanted jirgas to have a set place to meet, wanted reimbursement for travel expenses or a stipend, and a few also asked for written versions of workshop materials (Responses to Question 9).

Lack of resources aside, respondents did credit RLS-I with a number of positive institutional changes to the jirga system in their areas, including improving the operation of the jirga system, and reducing corruption. First – and relating directly to women's rights – a number of interviewees stated that the use of girls in *baad* had decreased. One respondent added that, instead of girls, parties were now exchanging land or money to settle disputes (Responses to Question 2). A large number of male respondents also noted that under RLS-I, *machalga* – a kind of bond used to ensure compliance in the jirga system – was no longer used. Instead, the quasi-state nature of RLS-I proceedings, in their account, ensured parties' compliance (Responses to Question 3). Interviewees tended to support this development, as they saw it decreasing corruption in the jirga system by reducing the role of money and financial incentives. They also appreciated the training regarding interaction with the formal system, especially training in the writing of decision letters (Responses to Question 1).

Relatedly, a number of respondents also credited RLS-I with decreasing corruption more generally, especially as it shifted disputes out of the state system and toward the traditional one (Responses to Question 13). For the most part, respondents did not seem to be saying that the state had become less corrupt, per se, only that a less corrupt alternative to the state now existed. Indeed, several respondents praised RLS-I for strengthening the jirga system enough to take cases there instead of the courts (Responses to Question 13). As such, RLS-I might be strengthening the jirga system at the state's expense. However, much more investigation of this specific topic would be required to confirm or disprove this possibility.

Nevertheless, most – but not all – respondents were open to the possibility of registering jirga decisions with the state. If anything, parties' responses seem to have varied

from place to place, and likely reflect local conditions, and the government being more trusted in some places than others. One respondent group of jirgamaran stated that they had already begun using the government to register their decisions, and another reported working with the District Governor's office to ensure observation of jirga decisions. However, other groups stated that sending decision letters to the government, or working with the government generally, was not their practice and, what is more, they would not necessarily want to do so (Responses to Questions 14). All, however, responded positively to the idea of having a gathering of elders from different districts. One respondent even added that such a meeting would bring rewards both in this life, and the next one (Responses to Question 16).

Finally, regarding Community Cultural Centers, most respondents had not heard of them, but a significant minority had. One female focus group even reported using the Community Cultural Center to have meetings and discuss community problems (Responses to Question 15).

Overall, then, program participants rated RLS-I very highly: they appreciated the knowledge gained, thought the program to have a significant practical impact, and were eager to see it expanded in the future. Women seem to have benefitted from the program even more than men, and describe RLS-I in terms that border on the transformative. There does, however, remain some possibility that RLS-I might be weakening local state governance by building up the jirga system. Program implementers might want to monitor this situation, but it seems that, at present, respondents are generally happy to work with the state system, and increase linkages to it. All of the above progress, of course, depends upon RLS-I being a long-term initiative, and interviewees universally wanted this sort of commitment. If the RLS-I program is to have a truly significant impact, then its implementers should heed the feelings of program participants.

KANDAHAR (SOUTH)

During the week of Sunday, December 26, 2010, The Liaison Office conducted a number of focus group and individual interviews in and around Kandahar, for the purpose of evaluating Checchi Consulting's Rule of Law- Stabilization I (RLS-I) program. These interviews showed the following:

- Almost all program both women and men, rated highly the knowledge they gained during the RLS-I program. They also praised program staff, and expressed excitement at expanding the program.
- Those interviewed, however, often expressed doubt about the practical worth of the RLS-I program. In particular, they thought that agricultural or other development would prove more useful, and others stated that they did not think they would be able to apply what they had learned in their communities, or, in the case of female respondents, outside their families.
- Regarding women's participation in the program more generally, those interviewed noticeably split: a few reported that their community elders had, since the RLS-I program, become aware of women's rights, and even included women in jirgas. Most, however, while valuing the program, felt it had had either no impact, or no impact beyond women's immediate families.
- Finally, the Community Cultural Centers sponsored under RLS-I seem to have been an almost complete failure. Almost no interviewees had even heard of the initiative. Of those that had, they tended to report that problems with security had impaired the initiative's functioning.

To begin, among all respondents, about 95% said they had heard of the RLS-I program, and about 50% had participated in it. Of those who have not yet participated, most said they would like to, as they found the topics interesting (Responses to Questions 1-2). Respondents also spoke with considerable affection about program staff (Response to Question 9). That being said, women were considerably more restricted from program participation than men, and seem to have rated the program somewhat lower, though still positively.

More specifically, all but two respondents had heard of the program – although this is perhaps not surprising as program beneficiaries designated by Checchi Consulting were being interviewed (Responses to Question 1). And, as above, about half of respondents had attended a RLS-I workshop, and a number of respondents had attended several. This repeated attendance, in turn, seems to reflect enthusiasm for the program. For example, one respondent stated that he had attended RLS-I workshops in Kabul, Kandahar, and a separate workshop at the Spozmai Wedding Hall and he was not alone in this pattern (Responses to Question 8). Given this multiple attendance, and the enthusiasm of those attending (discussed below), it seems that respondents not attending did so because of individual circumstances, not out of any objection to the program. For example, one woman stated that she had been unable to attend any workshops, because she was too young and her family would not allow it. Another stated that she had attended one workshop, before being stopped by her family (Responses to Question 8).

Those who had attended spoke very highly of the program, although men more so than women. One male respondent thought that the program had "opened [his] eyes", especially as so many people are illiterate, and find it difficult to gain new knowledge independently. The

most enthusiastic respondents also stated a willingness to spread the knowledge they gained from the program to others. (Questions 1-2). And some even attributed to the program a quasi-spiritual dimension (Responses sto Question 10). Female respondents tended to avoid these rapturous terms, while still speaking well of the program. Said one, "We are uneducated, as if we were blind. We know nothing, but [RLS-I] has an advantage for us" (Response to Question 2). Others expressed appreciation for learning about women's rights and inheritance rights. (Responses to Question 9)

In turn, all interviewees had a high opinion of program staff. Some reported meeting with RLS-I staff up to three times a week, and most respondents reported meeting with them at some point. These meetings were, in turn, described as "beautiful experiences", and respondents praised the "good morality" of the staff. One described RLS-I employees as "better" than those of other organizations (Response to Question 10). Female respondents also expressed particular appreciation that the staff listened to women's opinions and concerns (Responses to Question 9).

Unsurprisingly, respondents displayed similar attitudes when discussing the program's continuation. They responded with great enthusiasm when presented with the idea to communicate elders' decisions to district officials, and to bring together people from different regions periodically to discuss major issues. In particular, regarding sending decisions to district authorities, interviewees expressed support more or less across the board. However, many also added the caveat that district authorities should have no power to interfere or reject these decisions; rather, approval of elders' decisions should be automatic. Several also added that registering shura decisions would make district authorities more aware of the strengths of the informal system, and "highlight the dignity of Afghanistan." (Responses to Question 14). Similarly, one respondent said that a gathering of elders from around the region should be done because it would be a "great achievement" for tribal elders, and several favored the idea because it would increase tribal elders' importance (Responses to Question 16).

Thus general enthusiasm for the program, and its future, was quite high. Respondents expressed somewhat less optimism, however, regarding the program's usefulness. About half of male respondents, and a majority of female respondents, thought that information provided in RLS-I was not realistic. On the other hand, a substantial minority reported that they had used the techniques learned via RLS-I, and that these techniques had worked. One interviewee even responded that, in his area, they were consistently applying RLS-I techniques, and they had worked to solve at least one previously intractable conflict (Responses to Question 8). Others praised conflict mediation training (Response to Question 2).

On the one hand, some respondents who had attended RLS-I workshops called the material presented impractical, and stated that they did not see how such methods could work in their communities. Most also stated that they have not yet used techniques learned in RLS-I workshops, including about 75% of female respondents (Responses to Question 8). These responses probably relate to interviewees' broader sense that programs focused on physical and economic reconstruction would be more useful (Responses to Question 10). Most also stated that these should be the first priority (Responses to Question 7), although a few though RLS-I the more appropriate priority, for its aforementioned spiritual qualities. What is more, one female

respondent did state that she found the RLS-I program better than a previous atricultural project, and another preferred RLS-I because it operated honestly, without opportunities for bribes (Responses to Question 10).

More broadly, women seemed to approach RLS-I in a somewhat different way than men – hardly unsurprising given their different social position. Overall, women seem to have participated in this program, and benefitted from it, less than men did. Most positively, one respondent said that the RLS-I program "gives us courage", particularly as they struggle against the Taliban (Response to Question 11). Another added that she would pass on the skills taught in RLS-I to other women (Response to Question 12). And members of one focus group added that some shuras in their areas had begun allowing women to join the discussions (Responses to Question 13).

Those are obviously substantial and positive achievements. Nevertheless, a majority of female interviewees stated that they had not been empowered, or only had been empowered to solve disputes within their homes. One stated that RLS-I helps families, but not her broader community; and others echoed the sentiment (Responses to Question 12). Respondents also generally seemed to lack knowledge beyond their home environments. Regarding the inclusion of women in the shuras, one woman stated that "[The shura] is related to men: they know, [but] I have no idea" (Response to Question 12). Finally, one young woman said that her family had prevented her from participating in RLS-I programs (Responses to Question 13). Thus the RLS-I program seems to have empowered a minority of women to assert their rights more boldly, and perhaps led, or reinforced, some positive social changes in gender roles. Nevertheless, it also seems to have left most female program participants – not to mention Kandahari women more generally – in roughly the position that it found them.

Finally, one must note that RLS-I has had one unmitigated failure: the attempted establishment of Community Cultural Centers. All but two respondents had never heard of these centers. And those that had, reported that security had required the removal of the Centers from local schools, to district authorities' offices. One respondent said that people still used the Center occasionally; another replied that, after its move, no one had used it again. (Responses to Question 15)

Overall, then, RLS-I's greatest success has probably been in the provision of knowledge: Respondents universally related program instruction quite highly, and were very enthusiastic to participate in it. They also expressed great hope about the program's future. That being said, most respondents also dismissed the practical value of RLS-I, with women seeming to dismiss the program's practical effects to a greater extent than men did. Only a minority reported that the program had had a notable practical effect to this point. This result does not make the program a failure in and of itself. However, it does mean that RLS-I, to have this deep practical effect, will need to operate for significantly longer than the short time given to it.

ANNEX F: LIST OF KEY INFORMANTS & APPOINTMENTS

	Key Informant Interview Schedule			
	Date	**Name**	**Title**	**Organization**
1	Jan.1 9am	Chris Boeder	Sr. Justice Advisor [East]	Checchi RLS-I
2	Jan. 1 10am	Alex Newton Edgar Mason Kate Somvongsiri Chris Boeder	ROL Chief State - ROL ROL Team Leader Sr. Justice Advisor [East]	USAID/mission ODG USAID/mission USAID/mission ODG Checchi RLS-I
3	Jan1. 1pm	Wali Hashimi	Outreach Advisor	Checchi RLS-I
4	Jan.1 3 pm	Deborah Smith	Qualitative Research Advisor	Checchi RLS-I
5	Jan. 2 11am	Don Chisholm	ROL Advisor at KAF	USAID/Afghanistan
6	Jan. 2 3pm	Shafiq Ziai	Checchi ROL Advisor, Kandahar	Checchi RLS-I
7	Jan 4 10am	Hajji Mohammad	DDA Shura Head, Arghandab	District Government
8	Jan. 4 11am	Hajji Shah Mohammad	District Governor, Arghandab	District Government
9	Jan. 4 1pm Arghandab District Tribal Elders	Mohammad Akbar Jan Ahmad Shah Khan Mohammad Ewaz Dr. Abdul Khaliq Haji Nazar Jan Sayed Noor Mohammad Shah Haji Sarwar Khan Bismillah Khan Dadullah Khan Mullah Mohammad Rasool	Tribe: Alkozai Sulaiman Kheil Momand Alkozai Alkozai Sayeed Alkozai Alkozai Alkozai Alkozai	Village: Nawe Mazrea Nawe Mazrea Nawe Mazrea Khawja Molk Khawja Molk Khawja Molk Wakil Kala Loi Minara Kohak Nagahan
10	Jan. 5 10am	Mike Johannes	USAID D&G rep.	Arghandab DST
11	Jan. 5 11am	Mohammad Nasim	District Court Judge	Arghandab District Centre
12	Jan. 5 noon	Rahmatullah Amiri Mohabatullah	Field Supervisor Field Survey Team member	TLO - NGO
13	Jan. 5 1.30pm Provincial Elders, Kandahar	Mamoor Haji Obaibullah Haji Adam Haji Toor Jan Mullah Abdul Malik Daru Khan Khaksar Abdul Khaliq Haji Ghulam Haider Khan	Tribe: Noorzai / Village: Loi Wala Barakzai / Semano Pul Barakzai / Nesh Acheckzai / Loi Wala Popalzai / Daman Barakzai / Chora District Noorzai / Charchino Noorzai / Charchino	Kandahar Kandahar Nesh /Kandahar Kandahar Daman Uruzgan Uruzgan Uruzgan
14	Jan. 6 3pm	Alex Newton Edgar Mason Kate Somvongsiri	ROL Chief State - ROL ROL Team Leader	USAID/mission ODG USAID/mission USAID/mission ODG
15	Jan. 7 noon	Kelly Gavagan	CoP RLS-I Project	Checchi Co.
16	Jan 7 2pm	Ryan Clark	Sr. Justice Advisor [South]	Checchi RLS-I
17	Jan. 8 noon	Hanifa Giulmiran	Rule of Law Advisor	Checchi RLS-I Jalalabad

		Wahida Kakar Seema Naimadi Humaira Rafi	Community Justice Advisor Community Justice Advisor Community Justice Advisor	
18	Jan. 8 3pm	Dr. Raihanullah Rahimi Wafaurahman Wafa Muhebullah Sabiri Shafiqullah Rahmani	Nazrabad Village, Surkhrod District Hada Village, Behsood District “ Jalalabad City	Nazrabad Cultural Centre Diwa Cultural Centre “ Sharq Cultural Centre
19	Jan. 8 4.30pm	Hamid Naeemjou Shafique Wak Mussaray Arif Shakiba Laz Mohammad Waziri Kandiwal	Research Officers	TLO [NGO engaged to field village-level survey]
20	Jan. 9 9am	Mawlavi Rahim Haji Gholam Nabi Haji Adbul Wahid Haji Esmatullah Abdul Wodod Aimal Hand	Shiekh Misry Jamali Ahmadzai Amarkhil Deh Balo Zerani	Village Elders – SurkhRod District
21	Jan.9 11am	Farman Shali Mohammad Danishyar Dr khoshal Mohammad Ekram Mohammad Sharif Haji Aminullah		IDLG Shura members
22	Jan. 9 2pm	Assadullah Rashid Fazlullah Yousafzai Sayad Nabiullah Wahid Hazibullah Safi	Community Justice Advisor Community Justice Advisor Rule of Law Advisor Rule of Law Advisor	Checchi RLS-I male field team Jalalabad
23	Jan. 9 5pm	Edgar Mason Don Chisholm	State USAID	Update on assessment progress
24	Jan. 10 9.30	5 persons	Behsood	Women Elders
25	Jan. 10 11	6 persons	Sukh Rod	Women Elders
26	Jan. 10 2pm	Mohammad Qasem Bahaul Khan Shams Aqa	Judge of Sukhrod District Member of Huqooq [Sukhrod] Member of Huqooq [Behsood]	Huqooq Judge and members
27	Jan. 11 8.30	Female field team [4]	Jalalabad	Checchi RLS-I female staff
28	Jan. 12 9am	Kelly Gavagan	CoP	Checchi RLS-I
29	Jan. 12 10am	Ayoube	M&E Specialist	Checchi RLS-I
30	Jan. 12 11 am	Wali Hashimi	Outreach Specialist	Checchi RLS-I
31	Jan. 12 11.30	Shafiq Zaia	Sr Rule of Law Advisor, Jalalabad	Checchi RLS-I

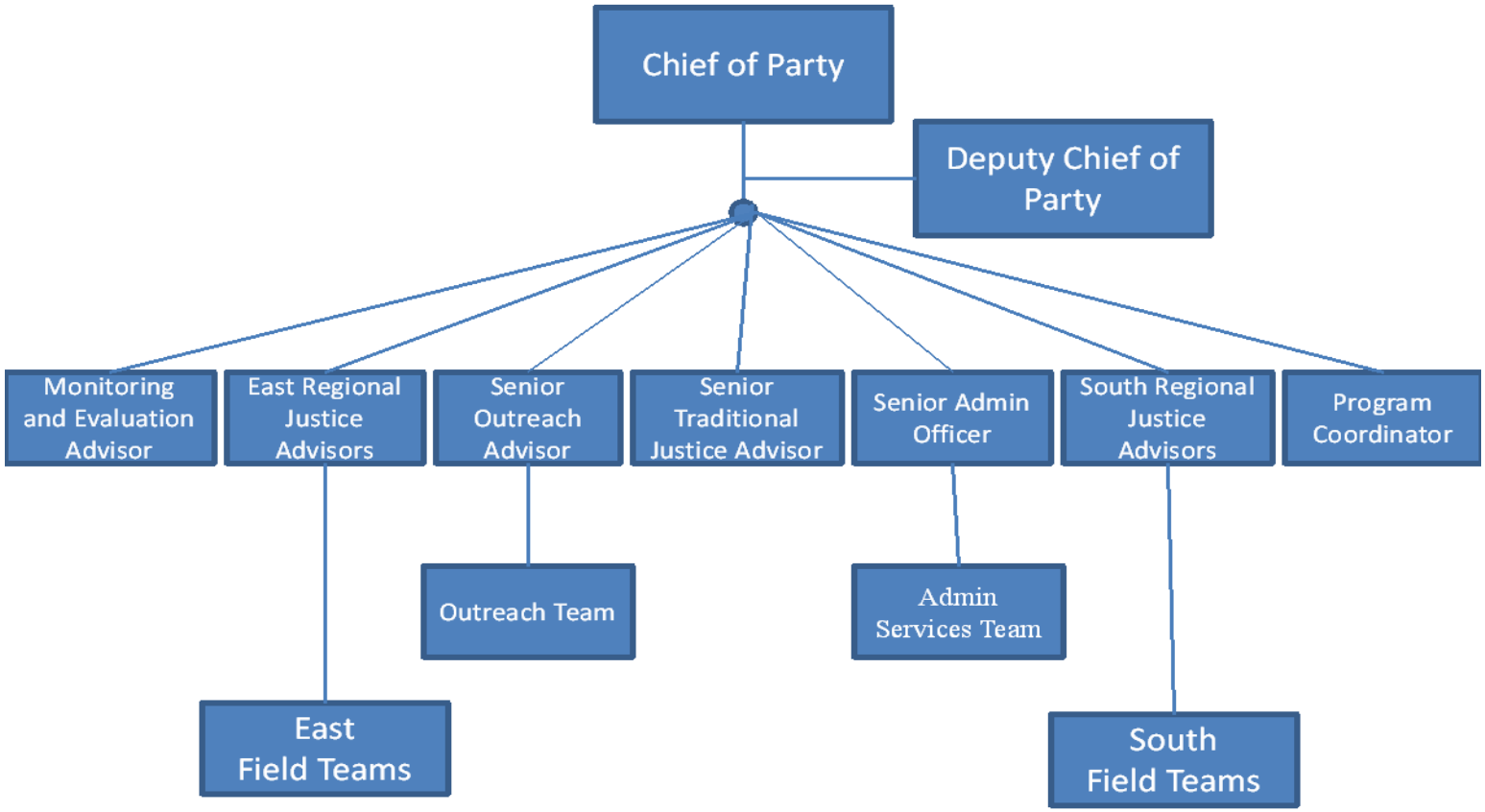
ANNEX G: WORK SCHEDULE

Afghan Rule of Law Stabilization Program (Informal Sector)

Rapid Assessment of Pilot Projects in South [Arghandab and Dand] and East [Behsud and Surkh Rod]

ACTIVITY SCHEDULE v.3

Phase	Taskwork Description	Dec. 2010					Jan. 2011																			
		27	28	29	30	31	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Desk Review	Review relevant program-related documents																									
Preparation & Planning	Plan field trip itinerary and logistics with USAID & Checchi ROL																									
	Draft semi-structured interview guide and begin identifying key informants																									
Mobilize	Travel from home base to Afghanistan																									
Orientation	Initial briefings by Checchi & USAID; discuss and agree workplan																									
	Interview selected ROL-I staff																									
Fact-Finding	Fly to Kandahar p.m.																									
	Interview key informants Kandahar - small group sessions																									
	Review progress of NGO team conducting village-level survey																									
	Fly back to Kabul																									
	Fly to Jalalabad																									
	Review progress of NGO team conducting village-level survey																									
	Interview key informants Jalalabad - small group sessions																									
	fly to Kabul																									
Analysis	Analyze data and information, formulate conclusions/recommendations																									
De-briefing	Oral de-brief to USAID on preliminary findings																									
Drafting	Prepare draft report																									
De-mobilize	Submit draft report to USAID and depart Kabul.																									
	Travel to Home Base																									
Submit Final Report	Review written comments from USAID on draft report																									
	Prepare Final Report and submit to USAID																									
##	1. beneficiaries [those directly affected by the ROL pilots - elders and women].																									
	2. stakeholders [not directly affected but concerned parties such as judges, donors, military, NGO etc.]																									
	3. Checchi ROL project staff 'implementers' [expatriate management and national staff]																									

ANNEX H: RLS-I ORG. CHART

RLS-I Organizational Diagram