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RULE OF LAW STABILIZATION PROGRAM - INFORMAL COMPONENT

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Elders from Dand district of Kandahar province Discussing elimination of Baad and finding alternative to Baad held on 13th April 2011

April 2011

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LIST OF ACRONYMS

RLS-I	Rule of Law Stabilization Program - Informal Component
ILF-A	International Legal Foundation - Afghanistan
CCC	Community Cultural Center
MoJ	Ministry of Justice
ROL	Rule of Law
IDLO	International Development Law Organization
JSSP	Justice Sector Support Program
FGD	Focus Group Discussions
UNDP	United Nations Development Program
UNAMA	United Nations Assistance Mission in Afghanistan
KPRT	Kandahar Provincial Reconstruction Team
NGO	Non-Governmental Organization
ADR	Alternative Disputes Resolution

The contract between Checchi and Company Consulting, Inc. (Checchi) and USAID/DCHA/DG for the Rule of Law Stabilization Program – Informal Component (RLS-I) was signed on March 19, 2010 and its implementation began on April 6, 2010. RLS-I enhances the development of Rule of Law in Afghanistan through 1) researching formal and informal justice trends in 8 pilot districts; 2) strengthening informal justice in those pilot districts based on research findings; 3) enhancing linkages between alternative dispute resolution (ADR) and the state justice system; 4) improving access to legal defense; 5) educating communities about ROL through public outreach; and 5) national policy development.

1. APRIL PROGRAM HIGHLIGHTS

"I would say that I really needed this information and was in search of getting a source where I can get this information. However, being an elder of the village and making a lot of decisions, this seminar (seminar in deeds) helped me a lot. The seminar built our basis. By taking part in this seminar and the rest of the seminars I feel as if I am getting more and more educated. I knew how to write and read but the knowledge that I got in this seminar is really useful. Both judges (lecturers) gave us a lot of useful and practical information so we can really take benefit of such information. Obviously, the seminar was useful and more specifically it really helped us in resolving our disputes. – Surkh Rod Elder to RLS-I, April 2011,

Total Participants April & Cumulative				
Events Summary	No of Events	Male	Female	Total
April Network meetings	0	0	0	0
April Learning workshops	16	415	209	624
April Discussion Groups	15	252	177	429
April Total	31	667	386	1053
Cumulative Total To Date	183	4654	2901	7555

- **Women make up 44% of workshop and events participants with males being 56% for the month of April.**
- **Nangarhar Family law Seminar:** As a result of RLS-I family law seminars participants, i.e. white beards and community leaders from Qarghye district in Laghman and Kuz Kunar in Nangarhar province, have been provided with an opportunity to increase their knowledge of family law. These seminars have facilitated an opportunity for the community to understand how to deal with family disputes by using methods such as family courts.
- **Assessment in the new districts:** RLS-I South began district assessments in Qalat and Tarnak Wa Jaldak(TWJ)of Zabul and two Gozars(3 and 6) of Sub District 9 in Kandahar City.
- **Training of the newly hired field staff:** Data collection training was conducted by RLS-I on 11-13 April, 2011 for the newly hired staff for the extension districts Kama and Rodat in RLS-I regional office, Nangarhar province. The aim was to enhance their capacity to conduct focus group discussions, individual interviews, electing suitable persons for the focus group discussion and individual interviews and how to facilitate a focus group discussion session. Additionally, training for the new Zabul staff for the same purpose was held on 14 – 20 April in RLS-I main office, Kabul.
- Data collection for the district assessments of Kama and Rodat began simultaneously. These assessments will assess the current state of ADR and its relation to state actors. Furthermore, it will identify informal justice mechanism performance gaps and design an action plan for strengthening of ADR mechanisms at the district level. Finally, a perception study will act as a baseline for future impact study and changes in ADR in those districts.

- **Furnishing jirga-halls:** On April 27th the twelfth jirga hall was equipped by RLS-I East with the necessary items in Kuz Sultan village in Surkh Rod district. The center was built by NSP for the villagers and is specifically used for jirgee, community gatherings, meetings and other community based activities. This was the first jirga-hall that RLS-I has furnished which has a separate assigned building for women who are active in jirga-halls gatherings.
- **Creation of two new spin-sary groups:** On 18th and 21st of April 2011 two new groups of spin-sary were created by the RLS-I East female staff in Hanif Abad village in Qarghaee district and Lamatak village in Kuz Kunar district.
- **The role of the Spin-sary Women:** The group made up of 20 women whose activities are monitored over a fifteen day time period. The presence of this group has proven to be very effective in domestic dispute resolution.
- **Inheritance Law Workshops:** Inheritance law workshops were declared very useful by white beards, Jirgamaran, community elders as well as for the Spin-sary women. As a result they received valuable information regarding how to resolve inheritance related issues. Furthermore, the participants had opportunities to examine real-world problems and their associated solutions. In fact, it is worth emphasizing that the past cases that the participants brought can be useful precedents for future problems. Finally, during this workshop the participants demonstrated their commitment for the implementation of acquired skills during the workshops organized by RLS-I.
- **Coordination meeting between ADR, State Justice Actors and DG for coordination with ADR dispute resolution mechanism:** The link and coordination mechanism between tribal elders, state justice sector and District governor has been strengthened through RLS-I activities. It is important to highlight that now all tribal elders of Arghandab gather in the District Center as a result of RLS-I's ongoing activities.
- **Impact of seminars on marriage and divorce for female participants:** It was a great opportunity for women participants to learn about the regulations of divorce in the context of Islam. The workshops took place in Dand and Daman districts in Kandahar city. Additionally, many essential topics were being explained to the participants such as different forms of divorce, definition of divorce, the rights of parents regarding their daughters, etc.
- **Seminar on Afghanistan Land Law:** This seminar was warmly welcomed by Arghandab citizens as various issues related to land law were explained thereby giving a basic knowledge about owning, selling and buying land. Furthermore, land law was explained in the context of Islam, and further information was provided regarding both private and state lands. These seminars were especially welcomed by tribal elders as they gained knowledge concerning land law, thus making it easier to solve land disputes.

2. KEY ACTIVITIES – APRIL, 2011

RLS-I facilitated 31 different events/workshops during the month of April for 1198 elders and state actors both male (667) and female (531) in both RC South and RC East.

Meeting	Meeting Location	Category	Male	Female	Total Participants
Property Law Seminar	Spinghar Hotel, Jalalabad	Workshop	41	0	41
Family Law for ADR's Actors	Spinghar Hotel, Jalalabad	Workshop	49	0	49
Seminar on Deeds	Spinghar Hotel Jalalabad	Workshop	42	0	42
Discussion session practice ADR resolution (Female)	Kuz Kunar District, Nangarhar	Discussion Session	0	26	26
Inheritance Law Seminar	Hamisha Bahar Hotel Jalalabad	Workshop	42	0	42
Family Law Seminar	Spinghar Hotel, Jalalabad	Workshop	51	0	51
Discussion session to establish <i>Spin-sary</i> Group (Female)	Hanif Abad, Charbagh, Laghman	Discussion Session	0	26	26
ADR & State Actors Discussion Group on <i>Machalgha</i>	Spinghar Hotel, Jalalabd City	Discussion Session	21	3	24
Inheritance Law workshop (Female)	Spinghar Hotel, Jalalabad	Workshop	0	50	50
Property Deeds (Male)	Hamesha Bahar Hotel, Jalalabad	Workshop	50	0	50
Inheritance Law workshop (Female)	Spinghar hotel	Workshop	0	40	40
RC East, Subtotal: 11 Workshops/Event			296	145	441
Coordination meeting between ADR, State Justice, and DG actors	Arghandab District Center Kandahar	Discussion Session	28	0	28
Meeting with DG to specify disputes for resolution to CRC	Arghandab District Center Kandahar	Discussion Session	13	0	13
Distribution of the finalized printed copies of the decision and	Dand District Center,	Discussion Session	40	0	40

authority letters	Kandahar				
Follow up discussion session on alternatives to Baad as a method of dispute Resolution	Arghandab District Center Kandahar	Discussion Session	30	0	30
Discussion session on creation of Spin-sary for domestic resolution (Female)	Arghandab	Discussion Session	0	30	30
Discussion Session on elimination of Baad and find alternative to Baad (Female)	Spin Boldak	Discussion Session	0	30	30
Discussion Session on elimination of Baad and find alternative to Baad (Male)	Dand	Discussion Session	30	0	30
Follow up discussion session for finalization of decision and authority letters for ADR decision (Male)	Spin Boldak	Discussion Session	30	0	30
Discussion session on elimination of Baad and find alternative to Baad (Male)	Spin Boldak	Discussion Session	30	0	30
Discussion session on elimination of Baad and find alternative to Baad (Male)	Daman	Discussion Session	30	0	30
Follow up discussion session on elimination of Baad and find alternative to Baad- Women	Arghandab, Kandahar	Discussion Session	0	30	30
Follow up discussion session on elimination of Baad and find alternative to Baad (Female)	Daman, Kandahar	Discussion Session	0	32	32
Workshop on Afghanistan Land Law (Male)	Dand, Kandahar	Workshop	40	0	40
Workshop on Afghanistan Land Law (Male)	Spin Boldak	Workshop	30	0	30
Workshop on Afghanistan Land Law (Male)	Arghandab	Workshop	30	0	30
Workshop on Family Law (Female)	Dand, Kandahar	Workshop	0	33	33
Workshop on Family Law (Female)	Spin Boldak, Kandahar	Workshop	0	33	33
Workshop on divorce and marriage (Male)	Daman	Workshop	40	0	40
Workshop on divorce and marriage (Female)	Daman	Workshop	0	29	29
Workshop on divorce and marriage (Female)	Spogmay Hall, Kandahar City	Workshop	0	24	24
RC East Subtotal: 20 Workshops/Events			371	241	612
April Total: 31 Workshops/events			667	386	1053

3. Detailed Activity Report (RCS & RCE)

Nangarhar & Laghman (RC East)

RLS-I delivered two one-day Family Law workshops in Jalalabad City to 100 community elders from Kuz Kunar, Surkh Rod, Behsud districts in Nangarhar and Qarghaee district in Laghman. The participants gained information concerning marriage, marriage provisions, taboo, guardianships and alimony in the light of state and Islamic laws. During the seminars the participants discussed their specific problems and disputes which they faced during family related disputes in their communities. Thus, with the assistance of the instructors they found suitable resolutions for them.

Furthermore, two Property Deeds Seminars were arranged by RLS-I staff in Jalalabad for 96 tribal elders, religious scholars, *Malikan* and *Jirgamaran* from four pilot districts in Nangarhar and Laghman. These seminars aimed to increase Jirgamaran, white beards and community elders' knowledge concerning deeds. As a result of these seminars the elders were encouraged to implement their newly acquired knowledge to resolve disputes in their communities. Additionally, these seminars provided an opportunity for the participants to share real life problems and to work toward solutions for the intractable disputes.



Figure 1: Property Deeds Seminar held in Jalalabad on 27th April 2011

Additionally, one day property law seminar was held in Jalalabad City on April 17th for 41 community elders and jirgamaran. The main purpose of the seminar was to increase knowledge of property law for jirgamaran, Spin-geray and community elders' and provide to them an opportunity for discussing current challenges they face while resolving property related disputes. The participants learned the basics of property law such as definition of the property, types of property (complete and incomplete property), contracts/agreements (lease agreements, will, lending of property and pastures and endowed lands). Furthermore, an explanation of court procedures in property related disputes was held which centered upon when courts refer property related disputes to the elders and what is the legal base of the elders' decisions in property disputes resolution.

“We have participated in so many seminars, and they had good facilities and possibilities, but not that much efficient which is going to help us to resolve our disputes. Our Mosque Mullah does not have much information about property law, because this is very difficult subject and today it was explained with very simple way, I appreciate it. More, I request if the esteemed RLS-I office expand this project to the whole districts I am sure it will help our country to reduce disputes and bring the country to stabilization.” –male participant from Qarghaee, April 2011

A one-day inheritance law seminar was held in Jalalabad city for 50 Spin-sary women from Kuz Kunar, Surkh Rod, Behsud and Qarghaee districts in Nangarhar and Laghman provinces. The seminar aimed to enhance Jirgamaran, white beards and community elder's knowledge regarding Islamic/state inheritance law.

An inheritance seminar was held which included inheritance topics such as; elements, conditions and categories of inheritance. Moreover, the seminar covered expanded topics such as fixed share of relatives, what constitute a relative, preference between relatives, women's right to share inheritance and maternal relatives. All these issues were explained in detail by the instructor who is a professor in the Sharia Faculty of Nangarhar University with more than eighteen years of experience in teaching Inheritance law.

Three separate discussion sessions were facilitated by RLS-I for twenty-four state actors and community elders including women from Kuz Kunar district held in Jalalabad City. In fact, this is a working group of state actors and jirgamaran that meet monthly in order to strengthen links between formal and the informal justice mechanisms. During the session they shared their experiences and exchanged their ideas with each other regarding *Machalgha* (guarantee money) and *baad*. The participants condemned using *baad* in jirgee and made a vow that they would no longer tolerate its practice.

The remaining two sessions were facilitated by RLS-I female staff for 52 Spin-sary women from Kuz Kunar and Qarghaee districts. The main purpose of the discussions was to establish groups of spin-sary in Lamatak village in Kuz Kunar and Hanifabad village in Qarghaee districts in order to help resolve small and family related issues in their villages.

An inheritance law workshop was conducted by RLS-I female staff in Jalalabad City for 40 spin-sary women from Kuz Kunar, Surkh Rok and Behsud districts of Nangarhar province. The seminar was an orientation and introduction of RSL-I activities to those elders and influential Spin-sary women who are living in these rural communities. The purpose of this seminar was to make them aware of their rights to inheritance and to increase women's knowledge about the Afghan inheritance law. They learned the basics of inheritance law such as definition of inheritance, pillars of inheritance with knowledge, elements of

inheritance, conditions and obstacles related to inheritance, categories of inheritance and legacy related right in the light of inheritance.

All participants were satisfied with the information they gained through this seminar and promised to pass on this knowledge to their family members, relatives, neighbors and other community members in their villages.



Figure 6: participants of the Inheritance Law workshop for women, exchange their views with others. 26 April 2011, Jalalabad- Nangarhar province

RLS-I - Kandahar & Zabul (RC South)

RLS-I conducted ten discussion sessions concerning various topical issues in the districts of Kandahar province that we are currently located as well as Kandahar City. During these sessions the elimination of *baad* and finding alternative were discussed and all participants found it both useful and important. In highlighting these sessions, it was stated that many young girls' lives have been saved by not employing *baad* as a method in resolving disputes.



Figure 7: Elders participated in a focus group discussion in Arghandab on 6th April 2011

Consequently, the sessions brought together 122 women from Daman, Dand, Arghandab, and Spin Boldak districts in various discussion sessions. These sessions provided them with information concerning issues such as, marriage, divorce, the role of Spin-Sary women group, the elimination of *Baad*, and many other related issues. It is worth mentioning that the above mentioned discussion sessions were appreciated by the participants as now they now feel better equipped to meet the challenges of dispute resolution in their villages.

Due to RLS-I's ongoing efforts a number of males in Kandahar have received the opportunity to increase their understanding regarding above mentioned issues. Thus, discussion sessions have brought together many tribal elders, jirgamaran and community elders from Daman, Spin Boldak, Dand, Arghandab and Kandahar City in order to deal with their real world problems by peaceful means rather than using methods which can often times worsen the situation.

Furthermore, not only have community leaders been provided with opportunity to learn about above mentioned issues, but they also increased the level of coordination for resolving disputes among ADR and state justice actors and District Governors. Three workshops on Afghanistan land law in the context of Islam were delivered to elders from Dand, Spin Boldak, and Arghandab districts in Kandahar. They discussed land rights, what are private and public lands, and other rules and regulations in land law. As a result of these workshops elders of each district made a commitment to use the explained methods with reference to Islamic principles relating to land usage.

Likewise, two workshops were delivered regarding family law in Dand and Spin Boldak districts of Kandahar. The target groups for both workshops were women which can be considered as proof for female interest in these issues and their subsequent attendance at the workshops. They discussed women's rights in the context of Islam, domestic violence, gender based customs and other related issues. The other highlighted issue discussed were the right of parents vis-à-vis their children.

Three more workshops were delivered to both men and women concerning marriage and divorce in Daman and Dand districts of Kandahar province. The roles in both marriage and divorce were explained in the context of Islam and Afghan law. Further, it was an opportunity for elders to come together in order to resolve their problems concerning marriage and divorce and enhance their understanding regarding those topics. To add, the highlighted topics during workshops were different forms of divorce in the context of Islam, definition of *Nekah*, (marriage), and women’s rights. It is worth mentioning that these workshops have enhanced the knowledge of both men and women of the mentioned districts and they made a commitment that afterwards they will follow all the rules and procedures of both marriage and divorce. They also made a public commitment that by following the rules of marriage and divorce, women would not be discriminated against in their communities.

4. FIVE NEW PILOT DISTRICTS

Kama and Rodad (Nangarhar), Qalat and TWJ (Zabul) and district 9th (Kandahar city)

RLS-I expanded its activities to an additional five districts; Kama and Rodat in the east and Qalat and TWJ in Zabul as well as Gozars 3 and 6 in Sub District 9 of Kandahar City. The new field staff, after receiving training in Nangarhar and Kabul, started their work with data collection in order to assess the current state of informal justice and its relation to state actors. The data will be used for designing an action plan to strengthen the ADR system in the targeted districts. Field teams will arrange focus group discussions for a perception study to be used as a baseline evaluation of the project’s goals and activities.

“We did not know before that woman has the full right to ask her husband for her Maher. After attending this workshop we have learned that we have that right to do so. Thus, now we will ask our husbands to give us our Maher and also spread the knowledge to other women that in Islam we do have Maher and we should ask for it.” – Female participant from Dand, April 2011

5. PUBLIC OUTREACH

During the month of April RLS-I public outreach unit fulfilled a wide range of activities in both the southern and eastern regions. Two regional outreach assistants were hired, trained and introduced to the Community Cultural Centers (CCC) directors as well as to the radio and TV stations which facilitate many of the outreach activities in the districts.

In addition, Public Outreach started a number of activities that would be completed in May such as the animation of the first comic book on “alternative to *Baad*”, printing of second comic book on “encouraging women to take disputes to jirga” as well as the development of the third comic book on disputes between children and parents, forced child marriage. Finally, printing of pamphlets on “rights of accused upon arrest” and “the prisoners’ rights” was initiated.



Figure 8: RLS-I public outreach materials is being distributed in Saharq Community Cultural Center on 30th April 2011- Jalalabad, Nangarhar

Beside the above mentioned activities, RLS-I public outreach unit signed new contracts with Sharq TV Station/Shayeq network and Safa radio in Jalalabad to broadcast Radio and TV spots on “the rights of accused upon arrest” and “prisoners’ rights” from 1st May to 15th June 2011.

6. IMPLEMENTING PARTNERS

International Legal Foundation (ILF-A)

ILF-A is a non-profit organization which aims to develop a public defender system in Afghanistan. ILF-A attorneys contracted 289 new cases during the first three weeks of April that comprises 46 new cases in Nangarhar, and 21 in Kandahar. Almost all cases included smuggling, theft, assault, and cases violence against women.

Province	Lawyers	Total New Clients Contracted	appeals	Closed	Female	Juveniles
Kabul	28	45	16	22	0	1
Jalalabad	10	46	12	37	0	5
Kandahar	5	21	12	15	0	8

Helmand	3	13	8	6	0	3
Paktia	1	7	1	1	0	3
Bamyan	1	5	3	4	0	0
Mazar-e-Sharif	5	31	8	6	1	2
Kunduz	4	25	8	18	1	1
Jowzjan	3	15	4	8	1	2
Baghlan	3	15	4	14	1	1
Herat	8	50	21	48	0	9
Badghis	1	11	2	10	0	0
Ghor	1	5	3	0	0	0
Grand Total	73	289	102	189	4	35

At the end of April the Ministry of Justice (MOJ) approved the Term of Reference for a contract which states that ILF-A is going to work under MOJ's budget through the World Bank. Consequently, further stages such as comprehensive study of legal aid in Afghanistan and its analysis, and finally integration of ILF-A's activities and offices into MOJ will be carried out during this year and next year.

During the reporting period ILF-A Kabul Legal Clinic held its first public moot court at Kabul University. The students participating were from both Sharia and Law faculties of Kabul University. To add, the students played the role of judges, prosecutors, defense lawyers, witnesses, judicial police, victims and defendants accused of robbery which resulted in murder.

Likewise, Nangarhar PRT sponsored moot court in Jalalabad City and the on-going assistance of ILF-A was praised by the US Embassy and PRT. Similarly, a representative of CPAN of Laghman office appreciated ILF-A Jalalabad's hard work in regard to assigning a defense lawyer to represent all juveniles in need of legal defense in Laghman province.

Additionally, on April 23 the Jalalabad office hosted a five-day workshop on juvenile justice, Training of Trainers (TOT) and management for the office staff. This workshop was also conducted in Kabul, Mazar e Sharif, and Herat and proved to be very effective and will be conducted in Kandahar next month in order to build the capacity of the staff in above mentioned topics.

Finally, Kandahar's South and Central Regional Director, Mr. Abdul Wadood Haqmal, with the assistance of Rule of Law section of the KPRT held a meeting in Kandahar concerning defense attorneys. It is important to highlight that this meeting will be held on monthly basis with many

issues were being considered such as lack of space in the courts, prosecution offices, detention centers, and jails as well as space for defense attorneys to visit their clients. As a result of these meetings, KPRT promised that they will help in building needed space in the near future as well as a new law library.

7. SUPPORT NATIONAL POLICY DEVELOPMENT

A MOJ/Huquq Advisor was hired during the reporting period in order to work closely with the MOJ/Huquq both in Kabul and in the pilot districts RC East and South where RLS-I is working to review how the Huquq offices operate, their processes and procedures related to referral and registration of resolved disputes and finally to look at the relationship between formal and informal justice systems. The advisor during the reporting period participated in the Courts Working Group, attended an UNAMA meeting which focused on supporting Huquq offices, and met representatives of JSSP, UNDP and IDLO in order to ask their support for Huquq offices.

8. TRENDS AND CONSTRAINTS

Due to the ongoing security situation in the east, RLS-I canceled a discussion session which was planned for ADR and State actors in Qarghaee district and postponed all activities in Qarghaee district due distribution of a *Shab Nama* (night letter) by Anti Government Elements (AGEs). According to RLS-I security recommendation RLS-I (RC east) will wait until the end of this current week, after they receive security clearance from Hart Security to restart activities in Qarghaee.

In addition, some female participants from Qarghaee district could not attend a female seminar as RLS-I female staff was not able to invite them due to the security threat. Furthermore, the Kuz Kunar district security situation has also deteriorated in the last few weeks.

The assassination of Kandahar's Police Chief impacted RLS-I's activities on two levels; first, the security situation deteriorated and we could not conduct a CRC meeting which was scheduled to focus on the resolution of two specific conflicts referred by the Arghandab District Governor. Second, data collection in sub-district 9 was postponed for four days. Furthermore, one of the tribal elders, a regular participant of RLS-I events in Arghandab district, was seriously injured as a result of an attack carried out by the insurgents for unknown reasons. He did regularly come to the district center for different purposes including participation in RLS-I's activities. It is worth repeating that the exact reason behind this attack is yet to be confirmed but it nevertheless caused a delay in our activities.