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## GOVERNANCE

As of December 30, 2014, the United States had provided more than \$30.6 billion to support governance and economic development in Afghanistan. Most of this funding, more than \$17.7 billion, was appropriated to the Economic Support Fund (ESF) administered by the State Department and the United States Agency for International Development (USAID). The FY 2014 ESF appropriation of \$852 million is down from the high of \$3.3 billion appropriated in 2010 (see Appendix B). The FY 2015 ESF appropriation for Afghanistan was still being determined when this report went to press.

### KEY EVENTS

On December 4, 2014, Afghanistan's new national-unity government and representatives of the international community convened the London Conference on Afghanistan. Conference participants renewed commitments made at the 2012 Tokyo conference and agreed to update these commitments in 2015.<sup>286</sup> The London Conference was not intended to result in new donor promises of assistance;<sup>287</sup> instead the international community reaffirmed its previous commitment of \$16 billion in assistance through 2015.<sup>288</sup> The conference was also an opportunity for the Afghan government to present its reform agenda, *Realizing Self-Reliance: Commitments to Reforms and Renewed Partnership*. However, the Afghan government's proposals lacked specificity.<sup>289</sup>

Throughout the quarter, there were numerous delays in appointing a new cabinet and other high-ranking Afghan government officials. The failure of President Ghani and Chief Executive Officer Abdullah to introduce, even symbolically, new ministers in time for the London Conference was a disappointment to donor governments that had encouraged the government to offer a tangible sign of progress.<sup>290</sup> The seeming paralysis of the new government followed a long period of inactivity under the Karzai administration during the protracted 2014 election process.<sup>291</sup> On January 12, 2015, President Ghani's office finally announced 27 senior-level nominees. The nominations are still subject to parliamentary approval.<sup>292</sup>

This quarter, the Asia Foundation released the 2014 *Survey of the Afghan People* based on in-person interviews conducted from June 22 to



**Afghan President Ashraf Ghani** during a press conference at the presidential palace. (DOD photo)

July 8, 2014,<sup>293</sup> following the presidential election run-off on June 14, but before the September 21 agreement to form the national-unity government.<sup>294</sup> In 2014, 54.7% of Afghan respondents said the country is moving in the right direction, down from 57.2% in 2013; 40.4% said it is moving in the wrong direction, up from 37.9 % in 2013. Despite yearly fluctuations, the long-term trend since 2006 shows an increase in the perception that the country is moving in the right direction.<sup>295</sup>

Asked about government performance, 75.3% of Afghans said the national government does a somewhat good or very good job. Around two-thirds said provincial government is doing a good job (67.6%), followed by municipal authorities (58.5%) and district government (56.7%). These views in 2014 were quite similar to those in 2013.<sup>296</sup>

The survey also found that 67.4% of Afghans surveyed said they feel very safe or somewhat safe expressing their opinions about the government in public. Afghans living in urban areas (76.2%) are more likely to feel safe speaking out about the government in public than those in rural areas (64.5%).<sup>297</sup>

## NEW AFGHAN GOVERNMENT

### Initial Appointments

Despite a campaign promise to form his government within 45 days of the inauguration in September<sup>298</sup> and a promise at the December 4 London Conference to have a cabinet in place within a month,<sup>299</sup> President Ghani failed to announce nominations for key government positions until January 12, more than three months after the new government's inauguration.<sup>300</sup>

No former Karzai-administration government ministers or serving members of parliament were nominated; however, four of the candidate ministers are former deputy or acting ministers. According to the Afghanistan Analysts Network, with the exception of the candidates for the foreign affairs, security, and finance ministries, the candidates were generally young and inexperienced. The candidate ministers included three females to lead the ministries of higher education, women's affairs, and information and culture. The announcement on January 12 did not include candidates for attorney general, the director of the Independent Directorate of Local Governance (IDLG), or chief justice.<sup>301</sup>

On January 20, Ghani formally introduced the nominees to parliament. There were changes between the initial list of nominees announced on January 12 and the final list presented to parliament. For example, the nominee for the Ministry of Agriculture, Irrigation, and Livestock requested a delay in consideration of his nomination after it emerged that he was on Interpol's most wanted list for tax evasion in Estonia. The nominees for key positions included:

- Sher Muhammad Karimi, an officer from the pre-communist, communist, and post-Taliban army who is currently chief of the general staff, was nominated to be minister of defense.
- Nur ul-Haq Ulumi, formerly governor general of the Kandahar zone during the communist regime, was nominated to be minister of interior.
- Salahuddin Rabbani, currently chair of the High Peace Council, was nominated to be minister of foreign affairs.
- Eklil Ahmad Hakimi, ambassador to the United States, was nominated to be minister of finance. Ghulam Jailani Popal, formerly deputy minister of finance for revenue and customs and director general at the IDLG, was originally nominated to be minister of finance, but he withdrew his nomination, reportedly due to his dual citizenship.
- Rahmatullah Nabil, currently head of the National Security Directorate (NDS), was nominated to continue as head of NDS.<sup>302</sup>

The delays led to significant frustrations with the national-unity government. In January, *Tolo News* released a survey that found a drop in previously enthusiastic support for President Ghani. Only 27.5% of respondents were very satisfied with Ghani's performance, down from 59.9% after the first month of the new administration. Still, 30.4% of respondents in the latest poll reported being moderately satisfied, while 32% were not satisfied at all.<sup>303</sup>

Parliament also expressed increasing frustration with the administration. In late December, the lower house of parliament set a one-week deadline that passed without consequence. Following the deadline,<sup>304</sup> a parliamentary delegation met with the national-unity government, which requested another week to introduce cabinet nominees.<sup>305</sup> After the second deadline expired, seven lower-house parliamentarians signed a document accusing President Ghani of treason for the delays. While the lower house would normally consider the accusation of treason, its speaker said legislators had already fulfilled their duty by meeting with the national-unity government to encourage a speedy resolution.<sup>306</sup>

As of early January, President Ghani also delayed staffing the newly created, 500-person Office of the Chief Executive and a 200-person special agency to promote reform and good governance because he had not yet signed decrees authorizing funds.<sup>307</sup>

While the new administration dithered on appointing key personnel, President Ghani has been aggressive in firing officials. In December, *Tolo News* reported that President Ghani fired several officials from Herat Province including the acting provincial governor, 15 police chiefs, eight district governors, five border police commanders, and the appellate court prosecutor. In addition, the heads of Da Afghanistan Breshna Sherkat (DABS, the national electric utility), education, and customs were all dismissed from their posts and are to be investigated for malfeasance.<sup>308</sup> Two

weeks later, however, *Tolo News* reported that dismissed district chiefs of police were still executing their duties. The new acting provincial governor reported that while the civilian positions have been replaced, it was beyond his authority to appoint security officials.<sup>309</sup> In Kunduz and Paktika Provinces, Ghani not only relieved but also replaced the governors.<sup>310</sup>

On November 30, President Ghani dismissed most acting ministers left over from the Karzai administration, to be replaced temporarily by their deputies.<sup>311</sup> This action followed calls from parliament to replace the acting ministers with permanent replacements after the constitutionally authorized two-month grace period ended.<sup>312</sup>

## Election Follow-up

The contentious April and June Afghan presidential elections of 2014 prompted reflection by U.S. and international organizations that supported the process. Although international observers found Afghan elections bodies made marked progress reducing the level of fraud from 2009 and 2010 levels, Afghan voters still perceived widespread fraud. Additionally, several high-profile incidents significantly damaged confidence in the process.<sup>313</sup>

According to USAID, the elections were conducted with a robust set of rules and a technical architecture specifically developed for a country with an extremely low literacy rate, limited resources, and a conflict environment. USAID noted that the level of fraud highlighted the limits of technical solutions despite these measures when many stakeholders engaged in the process adhere to the rules in only a limited fashion.<sup>314</sup>

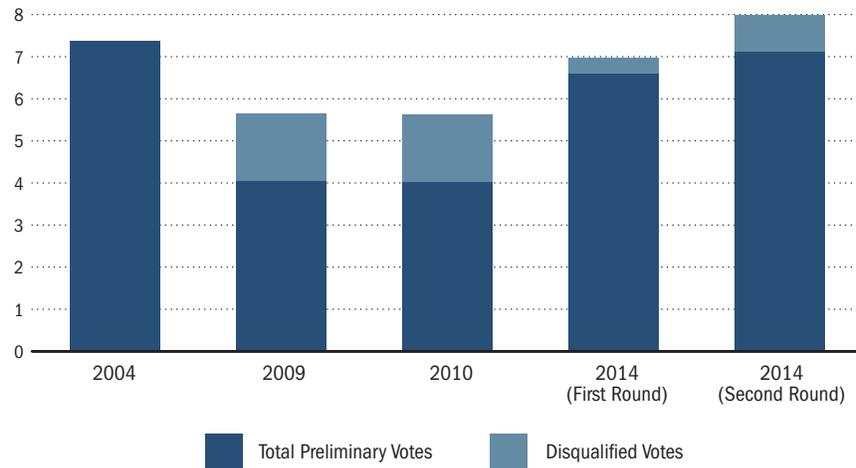
The Independent Election Commission (IEC) conducted a comprehensive audit of the June run-off election. The audit used qualitative measures to detect fraud, a significant departure from the quantitative measures used in audits conducted 2009 and 2010. The qualitative measures included attempting to identify ballot-box stuffing by determining whether an individual ballot box had a significant number of similarly marked ballots. The exact quantities of ballots that were similarly marked, however, were frequently contested between the two camps. IEC auditors would determine whether 10 or more ballots per box were cast for a particular candidate. If this determination was contested further, UN advisors would be called to provide their views. If more than 20 ballots (out of a total 600 per ballot box)<sup>315</sup> were declared similarly marked, a recount would be triggered.<sup>316</sup>

As a result of the audit, the number of invalidated ballots increased from 5.35% of ballots before the audit to 10.69% after the audit.<sup>317</sup> For a comparison, see Figure 3.28 for disqualified votes from the 2004, 2009, 2010, and 2014 elections.

The audit also revealed that the majority of fraud was ballot stuffing, through pre-polling, polling, and post-polling activities, and by polling-center staff malfeasance. District Field Coordinators (DFC)—temporary Afghan government electoral staff<sup>318</sup>—reportedly were the main source

FIGURE 3.28

## DISQUALIFIED VOTES IN AFGHAN ELECTIONS (MILLIONS)



Source: USAID, ODG, response to SIGAR data call, 12/29/2014.

of malfeasance. USAID cited the case of a senior Afghan electoral official who had to resign after audio recordings surfaced of him apparently giving orders to recruit DFCs with political bias. The same official also reportedly replaced many DFCs in the final days before the election without following the standard process. There were also increased reports of Afghan National Security Forces (ANSF) engaging in fraud which, according to USAID, was a relatively new occurrence.<sup>319</sup>

In December, the European Union Election Assistance Team (EU EAT) released its final report on the 2014 Afghan presidential elections primarily using quantitative indicators to identify potential fraud. The report did not specify how many votes EU EAT believed to be invalid, but identified irregular voting patterns that raise doubts about more than two million votes.<sup>320</sup> For example, EU EAT found that approximately 2.06 million run-off votes (26% of all votes cast) came from polling stations that used up 99% or more of their available ballots. This was an increase over the first round, which had approximately 769,000 votes (12% of all votes cast) coming from polling stations with 99% or more ballot utilization.<sup>321</sup> Another quantitative criterion used by EU EAT was a high number of ballots cast for a single candidate. In the first round, 4% of votes (approximately 285,000 ballots) came from polling stations in which one candidate won 95% or more of the vote. In the run-off, this amount increased to 30% (approximately 2.38 million votes).<sup>322</sup>

# GOVERNANCE

## U.S. ASSISTANCE TO THE AFGHAN GOVERNMENT BUDGET

### Summary of On-Budget Agreements

To improve governance and align development efforts with Afghan priorities, international donors at the 2010 Kabul Conference committed to increase to 50% the proportion of civilian development aid delivered on-budget through the Afghan government.<sup>323</sup> The donors, including the United States, reiterated this pledge at the July 2012 Tokyo Conference and again at the December 2014 London Conference.<sup>324</sup>

On-budget assistance is either (1) bilateral, government-to-government assistance or (2) disbursements from trust funds. Off-budget assistance

TABLE 3.12

USAID ON-BUDGET PROGRAMS						
Project/Trust Fund Title	Afghan Government On-Budget Partner	Special Bank Account?	Start Date	End Date	Total Estimated Cost (\$)	Cumulative Disbursements as of 12/31/2014 (\$)
<b>Bilateral Government-to-Government Projects</b>						
Power Transmission Expansion and Connectivity Project (PTEC)	Da Afghanistan Breshna Sherkat (DABS)	Yes	1/1/2013	12/31/2016	\$342,000,000	\$13,388,993
Partnership Contracts for Health Services (PCH) Program	Ministry of Public Health (MOPH)	Yes	7/20/2008	12/31/2015	259,663,247	194,326,384
Sheberghan Gas Development Project (SGDP)	Ministry of Mines and Petroleum (MOMP)	Yes	5/15/2012	4/30/2015	90,000,000	0
Kajaki Unit 2 Project (Installation of Turbine Generator Unit 2 at Kajaki Dam Hydropower Plant)	DABS	Yes	4/22/2013	12/31/2015	75,000,000	12,520,396
Agriculture Development Fund (ADF)	Ministry of Agriculture, Irrigation and Livestock (MAIL)	Yes	7/18/2010	12/31/2014	74,407,662	54,000,000
Basic Education and Literacy and Vocational Education and Training (BELT) - Community-Based Education	Ministry of Education (MOE)	Yes	10/29/2013	10/28/2017	56,000,000	0
Civilian Technical Assistance Program (CTAP)	Ministry of Finance (MOF)	Yes	9/30/2009	9/30/2014	36,256,560	28,810,610
Afghanistan Workforce Development Project (AWDP)	MOE	Yes	9/18/2013	04/03/2016	30,000,000	150,150
Basic Education and Literacy and Vocational Education and Training (BELT) - Textbooks Printing	MOE	Yes	11/16/2011	12/31/2014	26,996,813	24,436,268
E-Government Resource Center (EGRC)	Ministry of Communications and Information Technology (MOCIT)	Yes	8/28/2013	6/1/2016	3,900,000	30,000
<b>Multi-Donor Trust Funds</b>						
Afghanistan Reconstruction Trust Fund (ARTF) (current award)*	Multiple	No	3/31/2012	3/31/2017	1,900,000,000	721,057,556
Afghanistan Infrastructure Trust Fund (AITF)	Multiple	No	3/7/2013	3/6/2018	285,170,184	105,000,000

Note:  
\*USAID had a previous award to the ARTF that concluded in March 2012 and totaled \$1,371,991,195 in disbursements. Cumulative disbursements from the two ARTF awards are currently \$2,093,048,751.

Source: USAID, OPPD, response to SIGAR data call, 1/12/2015.

is undertaken by donors or their agents without passing through Afghan ministries or the Afghan national budget. As shown in Table 3.12, USAID expects to spend \$994 million dollars on active direct bilateral-assistance programs. It also expects to contribute \$1.9 billion to the ARTF, on top of \$1.37 billion disbursed under the previous grant agreement between USAID and the World Bank.<sup>325</sup> USAID also plans to contribute more than \$105.7 million to the AITF.<sup>326</sup>

At the 2012 Chicago Conference, the international community committed to financially support the Afghan security forces through separate mechanisms for the army and police with an estimated annual budget of \$4.1 billion.<sup>327</sup> Last quarter at the Wales Summit, NATO allies and partners renewed their commitment to contribute significantly to financial sustainment of the ANSF through the end of 2017 and to financially sustain the ANSF over the next 10 years. The international community has pledged nearly €1 billion, approximately \$1.29 billion,<sup>328</sup> annually to sustain the ANSF for 2015 through the end of 2017. The United States has requested and received \$4.1 billion in the FY 2015 budget,<sup>329</sup> which would help sustain the ANSF surge end strength of 352,000 through 2015.<sup>330</sup>

The United States expects that Afghanistan will assume an increasing portion of ANSF sustainment costs, beginning with \$500 million in 2015, as agreed to at the Chicago Summit.<sup>331</sup>

However, the already declining international confidence in the Afghan government's ability to increase its share further eroded during the quarter. The Afghan Ministry of Finance (MOF) reported that Afghan government revenues for 2014 were 8% below the year's target.<sup>332</sup> In October, the MOF claimed a \$537 million budget shortfall that threatened government civil servant salaries. This shortfall came despite the Afghan government's effort to take austerity measures such as putting on hold discretionary development projects, stopping cost overruns on existing projects and new recruitment, keeping operations and maintenance costs to a bare minimum, reducing overtime and freezing bonuses for civil servants, and disallowing procurement of luxury items.<sup>333</sup> For more information on the budget shortfall and the U.S. response, see pages 148–151 of this report.

## Civilian On-Budget Assistance

USAID provides on-budget civilian assistance through (1) bilateral agreements with seven Afghan government entities and (2) through contributions to two multidonor trust funds, the Afghanistan Reconstruction Trust Fund (ARTF) and the Afghanistan Infrastructure Trust Fund (AITF).<sup>334</sup> According to USAID, all bilateral-assistance funds are deposited in separate bank accounts established by the MOF for each program.<sup>335</sup>

The ARTF, administered by the World Bank, provides funds to both the Afghan government's operating and development budgets in support of Afghan government operations, policy reforms, and national-priority

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programs.<sup>336</sup> The AITF, a multidonor trust fund administered by the Asian Development Bank, coordinates donor assistance for infrastructure projects in Afghanistan.<sup>337</sup> According to USAID, the majority of on-budget funding has been and will continue to be directed through the multidonor trust funds, particularly the ARTF.<sup>338</sup>

The World Bank, as the ARTF administrator, employs a systematic approach to minimizing the exposure of ARTF funds to fiduciary risk. This includes policies, procedures, and practices that work together to identify, analyze, evaluate, and then address and monitor risk. The World Bank provides technical assistance to the Afghan government to ensure systems are in place and strengthened.<sup>339</sup>

In addition to the Afghan government's own control systems, the World Bank closely supervises the ARTF funds, according to USAID. The World Bank has added additional controls to its normal supervision system in the form of the ARTF Monitoring Agent (MA) and the ARTF Supervisory Agent. Disbursements to the Afghan government under the Recurrent Cost Window are made for eligible civilian operating expenditures of the government. The Bank has hired an MA to review recurrent-cost expenditures. The purpose of the MA is to ensure all expenditures financed from the Recurrent Cost Window are eligible and to deduct ineligible expenditure. The MA's monitoring is undertaken in two stages: after a desk review of expenditure, selective site visits follow to confirm that supporting documentation is in place.<sup>340</sup>

In October, USAID's Office of Inspector General (OIG) issued an audit report covering government-to-government assistance through bilateral agreements. The audit found that USAID improved its implementation of financial-management controls for government-to-government (direct or bilateral) assistance over time, although some controls were not fully utilized.<sup>341</sup> For example, although annual audits are required for governments that receive \$300,000 or more per year in USAID assistance, USAID officials fell short in ensuring that they and the Afghan government adhered to those requirements. Initially, the Afghan government was assigned responsibility for contracting its own audits as a capacity-building effort. However, USAID realized that Afghan government entities were not able to achieve audits per the required timelines. USAID's own contracted audits also faced challenges, including Afghan government reluctance to being audited.<sup>342</sup> The USAID OIG audit also found that USAID did not explain its expectations clearly in project documents, which can result in misunderstandings between the Afghan government and USAID and reduce the effectiveness of risk-mitigation measures.<sup>343</sup>

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

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

## On-Budget Assistance to the ANSF

A large portion of **on-budget** assistance is for the Afghan security forces. DOD provides on-budget assistance to the Afghan government

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

through (1) direct contributions from the Afghanistan Security Forces Fund (ASFF) to the Ministry of Defense (MOD) and the Ministry of Interior (MOI), and (2) ASFF contributions to the multidonor LOTFA. Administered by the United Nations Development Programme (UNDP), LOTFA primarily funds Afghan National Police (ANP) salaries.<sup>344</sup> Direct-contribution funding is provided to the MOF, which allots it incrementally to the MOD and MOI, as required.<sup>345</sup>

This quarter DOD decided not to release the commitment letters between the Combined Security Transition Command-Afghanistan (CSTC-A), the MOF, and MOI or MOD. The commitment letters specify the terms for U.S. military-managed financial assistance to the ANSF. SIGAR's questions about U.S. financial support to the ANSF can be found in Appendix E of this report. SIGAR is reporting on this matter in a classified annex.

SIGAR is conducting a criminal investigation into serious allegations that the current MOD fuel contract was corrupted by contractor collusion, price fixing and bribery.

In an audit released this quarter, SIGAR found that the two main electronic systems used for ANP personnel and payroll data—Afghanistan Human Resources Information Management System (AHRIMS) and the Electronic Payroll System (EPS)—are not fully functional, cannot communicate directly with each other, and do not span all personnel and payroll data processes. Both systems contain thousands of personnel records with incorrect or missing identification numbers. As a result, controls—such as automated data transfers, the capability to reconcile personnel between systems, and reduced dependence on handwritten reports—are not in place, and the risks of relying on untimely, inaccurate, or falsified ANP personnel and payroll data persist.<sup>346</sup>

CSTC-A, UNDP, and the MOI are each supposed to be responsible for verifying ANP personnel and payroll data. The verifications that these organizations performed were ad hoc and uncoordinated, and no one has conducted a comprehensive verification to cover all ANP personnel and payroll processes. CSTC-A could not provide SIGAR with written procedures for how it validates ANP personnel totals and officials confirmed that over the past year they accepted, without question, all personnel totals provided by the MOI.<sup>347</sup>

As of September, UNDP reported that the AHRIMS contains approximately 50,000 invalid identification cards for the MOI alone.<sup>348</sup> AHRIMS is a system to track personnel information for the ANP and Afghan National Army (ANA).<sup>349</sup> For comparison, the entire authorized strength of the ANP is 157,000,<sup>350</sup> however, AHRIMS presumably includes records for not only the current forces but also those who have left the force.

The *New York Times* reported in December that President Ghani has demanded that the UNDP end their stewardship of the LOTFA within six months. According to the European Union ambassador in Afghanistan, the

## SIGAR AUDIT

This quarter, SIGAR released an audit on ANP salary payments that found that more than \$300 million in annual, U.S.-funded salary payments are based on partially verified or reconciled data. For more information, see Section 2, page 23.

timeline may be unrealistic, but “It’s not like the LOTFA fund has tons of good will with the donor community.”<sup>351</sup>

Because SIGAR has already found that MOI internal-control mechanisms are insufficient to the task, SIGAR believes shifting police payment from LOTFA to direct financial assistance to the Afghan government would invite serious risks. SIGAR is not opposed to direct assistance, but believes such a move must contain a strict regimen of internal controls to ensure that monies are spent for their intended purposes.

## NATIONAL GOVERNANCE

The United States provides assistance to Afghan governing institutions to build their capacity to perform critical services and thereby increase their legitimacy in the eyes of the Afghan population. Assistance is provided in two ways: (1) through contracts, grants, and cooperative agreements; and increasingly, (2) through on-budget assistance. With 2014 marking the final year of the security transition, the U.S. government has been particularly focused on increasing the financial and program-management capabilities of Afghan government institutions. It is using a combination of capacity building and on-budget programs to achieve this end.<sup>352</sup>

The Tokyo Mutual Accountability Framework (TMAF) serves as a cornerstone of international engagement and is the agreed instrument for measuring mutual accountability.<sup>353</sup> The international community and Afghan government agreed to the TMAF at the Tokyo Conference of Donors in July 2012. Later the TMAF was augmented with intermediate targets for the Afghan government and the international community called “hard deliverables,” such as passage of a mining law.<sup>354</sup>

Last quarter USAID reported that, as a matter of policy, the U.S. Embassy Kabul is no longer evaluating or updating the original version of hard deliverables. According to USAID, the previous set of hard deliverables is no longer part of the discussion. The London Conference Communiqué said the TMAF will be refreshed at the Senior Officials Meeting in mid-2015.<sup>355</sup> Some incomplete actions from the original list may make it into a future framework.<sup>356</sup>

Although the London Conference did not result in a revised list of hard deliverables,<sup>357</sup> the Afghan government committed to deliver the following reforms ahead of the Senior Officials Meeting:

- Ensure that a credible budget is passed.
- Scrutinize expenditure and implementing measures to increase revenue including measures to broaden the tax base.
- Strengthen financial-sector supervision.
- Improve the conditions for responsible private-sector investment.
- Demonstrate actions to improve human rights, particularly the rights of women.<sup>358</sup>

On November 11, the Afghan government submitted its FY 1394 (Western calendar December 21, 2014–December 20, 2015) budget to parliament. The draft budget included a 3% overall reduction compared to the previous year’s budget, including an 11% reduction of non-security-related costs.<sup>359</sup> The draft budget was criticized in parliament and rejected by the lower house.<sup>360</sup> In January, the MOF submitted an amended budget that included more than 443 projects that were not included in the initial draft. Parliamentarians had criticized the first draft budget because it did not include these projects, many of which were left incomplete in the previous year.<sup>361</sup> The projects’ inclusion, of course, widens the potential fiscal gap between government revenues and expenditures.

## Capacity-Building Programs

USAID capacity-building programs seek to improve Afghan ministries’ ability to prepare, manage, and account for on-budget assistance. SIGAR’s January 2014 audit of USAID’s assessments of seven Afghan ministries receiving on-budget assistance from the U.S. government found that these assessments and reviews identified no ministry capable of effectively managing and accounting for funds without implementing risk-mitigation measures.<sup>362</sup> As shown in Table 3.13, programs include USAID’s \$31 million Leadership, Management, and Governance Project that aims to strengthen Afghanistan’s financial-management systems and the capacity of the Ministry of Public Health and the Ministry of Education to meet requirements set at the 2010 Kabul International Conference for increased on-budget aid.<sup>363</sup> USAID is also funding the \$15 million Ministry of Women’s Affairs Organizational Restructuring and Empowerment (MORE) project, which among other things assists the ministry to improve its financial management, as required for future on-budget assistance.<sup>364</sup>

To encourage Afghan ministries to rely more heavily upon the civil service and reduce dependency on the “parallel civil service” created through certain donor-funded programs, USAID has decided to move assistance from stand-alone programs to the ARTF’s Capacity Building for Results (CBR) program.<sup>365</sup> CBR supports ongoing public-administration reforms

TABLE 3.13

USAID CAPACITY-BUILDING PROGRAMS AT THE NATIONAL LEVEL					
Project Title	Afghan Government Partner	Start Date	End Date	Total Estimated Cost (\$)	Cumulative Disbursements as of 12/31/2014 (\$)
Leadership, Management, and Governance Project	Ministry of Public Health Ministry of Education	9/25/2012	10/31/2014	\$31,248,400	\$26,574,770
Assistance to Legislative Bodies of Afghanistan	Parliament	3/28/2013	3/27/2018	23,455,326	6,651,375
Ministry of Women’s Affairs Organizational Restructuring and Empowerment	Ministry of Women’s Affairs	12/20/2012	12/19/2015	14,182,944	4,508,558

Source: USAID, response to SIGAR data call, 1/12/2015.

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across the government, training for selected civil servants, and limited technical assistance to support ministry reforms.<sup>366</sup>

The CBR organizes Afghan ministries into three tiers which receive increasing levels of support, including financing to hire civil servants, technical assistance, and training.<sup>367</sup> All Afghan government ministries are automatically classified initially as Tier 1 and must compete for the higher levels of support afforded Tiers 2 and 3.

The seven criteria for Tier 2 include progress on pay and grade reforms at the central and subnational levels; a functional human resources department with 30% of pay- and grade-reform civil service staff evaluated through performance evaluations; an approved strategic or business plan with at least one annual progress report; a development-budget execution rate (the portion of budgeted amounts that controlling agencies actually spend) of at least 40%; and the ministry either (1) collects key revenues of at least 5% of the revenues collected by all ministries or (2) the ministry contributes to at least one key governmental service in human-capital development, key economic-infrastructure development, or judicial services. In order to advance to Tier 2 status, a ministry must meet at least five of the seven criteria.<sup>368</sup>

In addition to the criteria for Tier 2, Tier 3 requires that the ministry recruit 80% of central-level employees per the pay-and-grade reforms and recruit 50% or more of employees at the subnational level, and achieve a development-budget execution rate (the portion of budgeted amounts that controlling agencies actually spend) of at least 50%.<sup>369</sup> See Table 3.14 for the current status of ministries.

In August 2014, the World Bank found the CBR was making unsatisfactory progress toward its objective to assist the Afghan government in improving the capacity and performance of select line ministries, carrying out the mandates of its ministries, and delivering services. The World

TABLE 3.14

TIER STATUS OF AFGHAN MINISTRIES IN THE CAPACITY BUILDING FOR RESULTS (CBR) PROGRAM		
Ministry Tier	Ministry	Status
Tier 3	Ministry of Agriculture, Irrigation, and Livestock (MAIL)	Implementation under way.
	Ministry of Communication and Information Technology (MOCIT)	Implementation under way.
	Ministry of Public Health (MOPH)	Proposal in advanced stages, to be submitted to the CBR Advisory Group.
	Ministry of Education (MOE)	Proposal development initiated but has not progressed.
	Ministry of Rural Rehabilitation and Development (MRRD)	Proposal in early stages of development.
Tier 2	Ministry of Mines and Petroleum (MOMP)	Application fully approved on July 12, 2014.
	Ministry of Labor and Social Affairs, Martyrs, and Disabled (MOLSAMD)	Fully approved on July 12, 2014.
	Ministry of Commerce and Industry (MOCI)	Proposal in initial stage of development.
	Ministry of Urban Affairs	Approved to receive support as Tier 2 ministry.
	Ministry of Economy	Approved to receive support as Tier 2 ministry.
	Ministry of Justice (MOJ)	Proposal in initial stage of development.

Source: USAID, OPPD, response to SIGAR data call, 12/29/2014.

Bank noted, however, that the ministries themselves are the only data source for the progress indicators, and that the CBR program does not confirm the data.<sup>370</sup>

USAID reports this quarter that the CBR project is being reorganized. The World Bank has had discussions with President Ghani and his administration, and USAID expects the project to be restructured. USAID has not, however, received a set date for the reorganized project to be presented to donors.<sup>371</sup>

## National Assembly

USAID funds the \$23.5 million Assistance to Legislative Bodies of Afghanistan project (ALBA) to help Afghanistan's parliament operate as an independent and effective legislative, representative, and oversight body.<sup>372</sup>

In late November, parliament approved the Bilateral Security Agreement and the NATO Status of Forces Agreement (SOFA), which define the legal status of U.S. and NATO forces in Afghanistan after 2014.<sup>373</sup>

On November 1, the *Wolesi Jirga* (the lower house) approved a law criminalizing child recruitment by the ANSF. The practice had previously been forbidden by a presidential decree.<sup>374</sup>

According to USAID, while achieving quorum has been a challenge for parliament in the past, this quarter both houses of parliament achieved quorum when critical legislation was before them, including the Anti-Money Laundering Act, the Law to Counter the Financing of Terrorism, and the Bilateral Security Agreement.<sup>375</sup>

Over the past quarter, ALBA supported the following parliamentary commissions to undertake oversight trips in the provinces:

- Bamyan Province—Wolesi Jirga and *Meshrano Jirga* (the upper house) Commission on Women's Affairs, Civil Society and Human Rights;
- Herat Province—Wolesi Jirga Commission on Legal Affairs;
- Khowst Province—Wolesi Jirga Commission on Nomads, Tribal Affairs, and Refugees;
- Kandahar Province—Wolesi Jirga Commission on Internal Affairs;
- Nimroz Province—Wolesi Jirga Commission on International Affairs
- Nangarhar Province—Wolesi Jirga Commission on Handicapped, Disabled, and Refugees; and
- Paktiya Province—Wolesi Jirga Commission on Internal Affairs.<sup>376</sup>

Parliament also held hearings and summoned various government officials during the quarter including:

- The Chairmen of the IEC and the Electoral Complaints Commission, who were summoned by the Meshrano Jirga on November 2 regarding the results of the provincial council elections, but who sent deputies in their place.



**Then Ambassador James Cunningham** speaks at the Bilateral Security Agreement signing in September 2014. (State photo)

# GOVERNANCE

- The Acting Minister of Mines, who was summoned by the Meshrano Jirga on November 9.
- Acting Minister of Finance Zakhilwal, who introduced the draft national budget to the Meshrano Jirga on November 18.<sup>377</sup>

In January, the Research Institute for Women Peace and Security (RIWPS), an Afghan non-governmental organization, released a report on parliament's work in 2014. RIWPS found that 53% of legislators were absent during open sessions. Reportedly 70% of the Wolesi Jirga's open sessions focused on reviewing and voting on laws, while 25% were focused on monitoring government actions. The report criticized parliament for inconsistent monitoring of government and for dramatic but unproductive summoning of government officials.<sup>378</sup>

On November 16, 2014, a prominent female member of parliament and women's-rights activist, Shukria Barakzai, was injured in a suicide car bomb attack. According to the UN, no insurgent group has claimed responsibility for the attack.<sup>379</sup>

## SUBNATIONAL GOVERNANCE

The United States government supports initiatives at the subnational level to give Afghans a greater stake in their own government. The goal is to make local government more visible, accountable, and responsive to the Afghan people, particularly in the south and east, where the insurgency has been tenacious.<sup>380</sup>

This quarter, USAID began the Strong Hubs for Afghan Hope and Resilience (SHAHAR) program, which aims to create well-governed, fiscally sustainable Afghan municipalities capable of meeting the needs of a growing urban population.<sup>381</sup> SHAHAR has an estimated cost of \$74.5 million and is expected to end in November 2017.<sup>382</sup>

## Rural Stabilization Programs

USAID has several stabilization programs aimed at helping the Afghan government extend its reach into unstable areas and build local governance capacity. These programs include USAID's four Stability in Key Areas (SIKA) projects, the two Community Cohesion Initiative (CCI) programs, the Afghan Civilian Assistance Program II (ACAP II), and the ARTF's National Solidarity Program (NSP). The United States has requested that \$865 million of its ARTF contributions support the NSP, but has not "preferred" (earmarked) support for NSP since 2012.<sup>383</sup> Table 3.15 summarizes total program costs and disbursements to date.

The USAID Measuring Impacts of Stabilization Initiatives (MISTI) project is a third-party monitoring and evaluation program that evaluates the impact of USAID stabilization programs. This quarter, USAID released



**Women meet in Paktiya Province** for a SIKA East-sponsored female communications committee. (USAID photo)

# GOVERNANCE

TABLE 3.15

USAID SUBNATIONAL (RURAL) PROGRAMS				
Project Title	Start Date	End Date	Total Estimated Cost (\$)	Cumulative Disbursements as of 12/31/2014 (\$)
National Solidarity Program (NSP) via the Afghanistan Reconstruction Trust Fund (ARTF)*	2004	2012	\$865,000,000	\$865,000,000
Stability in Key Areas (SIKA) South**	4/10/2012	4/9/2015	78,241,053	56,112,052
SIKA East	12/7/2011	9/6/2015	177,054,663	96,611,137
SIKA West	1/29/2012	8/31/2015	54,000,000	38,949,085
SIKA North	3/15/2012	4/30/2015	38,000,000	27,456,973
Community Cohesion Initiative (East, South, Southwest)***	3/1/2012	2/28/2015	161,499,422	54,979,992
Community Cohesion Initiative (North, West)***	9/10/2013	9/9/2015	36,221,640	7,320,635
Afghanistan Civilian Assistance Program (ACAP II)	9/27/2011	2/15/2015	64,000,000	50,285,722

Note:

\*This includes USAID contributions to the ARTF with an express preference for the NSP. According to the agreement with the World Bank, donors can only express a preference on how their donations are used up to 50% of their total contribution. The remaining, unpreferred funds provided to the ARTF may also be used to support NSP.

\*\*The total estimated cost and disbursement data includes the totals for both SIKA South awards.

\*\*\*As of December 15, 2014. These disbursements do not reflect operational expenditures.

Source: USAID, response to SIGAR data call, 12/29/2014 and 1/12/2015.

a peer review of MISTI's methodology by RAND Corporation. RAND questioned the MISTI-generated stability index, calling it a "problematic measure."<sup>384</sup> The stability index is a central feature of MISTI designed to trace stability trends over time in districts where USAID programming is being implemented and in order to compare to districts without USAID programming.<sup>385</sup> However, RAND found that "The stability index in particular is poorly defined, combining fairly disparate elements which do not add up to a clear construct for 'stability'; importantly, it is unlikely that a clear 'stability' construct exists or is meaningful for this type of impact evaluation."<sup>386</sup>

RAND found that there is no centralized database of where USAID programming was targeted and what conditions were in those areas. There is therefore no way to assess how representative MISTI-identified programming is of overall USAID programming.<sup>387</sup>

RAND found that USAID stabilization programming does not seem to have been informed by a well-articulated "theory of change." The intent of MISTI is to assess the impact of USAID-funded "stabilization programs" on stability and **resilience**. However, properly assessing these programs requires articulating how this programming may be influencing these intended outcomes—a theory of change. A clearly articulated theory of change supports both the design of an intervention and its evaluation by providing clear guidance on where and why desired outcomes might be achieved.<sup>388</sup>

## SIGAR AUDIT

This quarter, SIGAR initiated an audit of the Measuring Impacts of Stabilization Initiatives (MISTI) project. This audit will look at USAID's use of a third-party monitoring and evaluation contract to measure the agency's progress in its stabilization programs. For more information, see Section 2, page 28.

**Resilience:** defined by USAID as "the ability of people, households, communities, countries and systems to mitigate, adapt to and recover from shocks and stresses in a manner that reduces chronic vulnerability and facilitates inclusive growth," and adds, "As this suggests, the concept of resilience and its measurement are complex."

Source: USAID, "The Resilience Agenda: Measuring Resilience in USAID," 6/2013.

## Stability in Key Areas (SIKA)

The objective of SIKA is to help district- and provincial-level Afghan government officials respond to the local population’s development and governance concerns, thus instilling confidence in the government and bolstering stability.<sup>389</sup> USAID intended the four SIKA programs to “be seen as an extension of the [Afghan government], not as increased foreign presence,” and stipulated that SIKA “must work within Afghan structures” in order to partner with the Afghan Ministry of Rural Rehabilitation and Development (MRRD).<sup>390</sup>

All four SIKA programs, along with IDLG, MRRD, and USAID, participated in the first formal Transition Working Group on November 8. Each SIKA implementing partner is to develop a handover package; MRRD and IDLG jointly prepared a sustainability paper. According to USAID, the sustainability paper was drafted on time, but is not realistic. The next meeting to discuss SIKA sustainability was scheduled for January 2015. USAID believes Afghan government counterparts will have expectations for additional donor support, including equipment, refurbishments, and finances, that USAID does not plan to accommodate.<sup>391</sup>

## Community Cohesion Initiative (CCI)

USAID’s CCI programs, split between one program covering the east, south, and southwest, and another covering the north and west, aim to build what USAID calls “resilience” in areas vulnerable to violence and insurgent exploitation. CCI implements initiatives such as local community-development projects that engage community leaders and government officials in



**Girls playing** on a SIKA East-provided sport field project in Ghazni Province. (USAID photo)

their identification and oversight. The CCI also supports peace-advocacy campaigns at sporting events.<sup>392</sup>

Since March 2012, CCI has implemented a total of 1,005 activities worth \$39 million in Badghis, Balkh, Faryab, Ghazni, Helmand, Herat, Jowzjan, Kabul, Kandahar, Khowst, Kunar, Samangan, Uruzgan, and Zabul Provinces.<sup>393</sup>

## RECONCILIATION AND REINTEGRATION

The current U.S. Civil-Military Framework states that political reconciliation between the Afghan government and insurgency is “the solution to ending the war in Afghanistan.”<sup>394</sup> President Ghani has expressed his commitment to launch an Afghan-owned peace process with the “political opposition, particularly the Taliban.” However, the UN Secretary-General noted that the Taliban have yet to signal readiness to formally engage in a peace process.<sup>395</sup> The United Nations Analytical Support and Sanctions Monitoring Team reported that the Taliban leadership remains largely opposed to reconciliation, although some elements argue in favor. Hardliners push for renewed military efforts and argue that a campaign of attrition will wear out government forces and institutions over several years. Meanwhile, the pragmatists argue for a negotiated settlement, which they believe could be to the Taliban’s advantage.<sup>396</sup>

### Reconciliation

In December, Chief Executive Officer for the national unity government Abdullah said that while the new government has not yet entered dialogue with insurgents, it is open to peace negotiations.<sup>397</sup>

Afghanistan and Pakistan appeared to improve their relationship this quarter following a Pakistani Taliban attack in December on a school that killed 132 children in Pakistan. Pakistan’s military and intelligence chiefs flew to Kabul to ask the Afghan government and U.S.-led military coalition for help to jointly counter terrorism and extremism. According to *The Wall Street Journal*, Pakistani intelligence traced the handlers of the attackers to the Afghanistan provinces of Nangarhar and Kunar. President Ghani promised to take serious steps to prevent future attacks in Pakistan.<sup>398</sup> Afghanistan’s national security advisor, Hanif Atmar, said that Pakistan stepped up its counterterrorism efforts following the December school attack.<sup>399</sup>

The *Wall Street Journal* reported that China hosted a delegation of Afghan Taliban officials in December. The delegation reportedly wanted to discuss the possibility of opening talks with the Afghan government.<sup>400</sup>

## Afghanistan Peace and Reintegration Program

The Afghanistan Peace and Reintegration Program (APRP), an Afghan-led program to reintegrate low-level insurgent fighters and their commanders into Afghan civil society, is financed by \$182.3 million in contributions from 12 donor nations. Seven donor nations, led by Japan and Germany, provide operational funding for the program. The United States provides funding for reintegration-related community-recovery efforts administered by the World Bank. For more information, see the October 2014 *Quarterly Report to Congress* pages 149–151.

Neither DOD nor State provided updates this quarter on APRP activity. According to the latest figures available to SIGAR, as of September 2014, 8,890 persons had reintegrated.<sup>401</sup>

### SIGAR AUDIT

SIGAR has an ongoing audit of U.S. government efforts to assist and improve the rule of law in Afghanistan. SIGAR plans to (1) identify U.S. government programs or initiatives to develop rule of law in Afghanistan; (2) assess the progress that these programs or initiatives have made; (3) identify challenges, if any, that the U.S. government has encountered in achieving its rule of law objectives and the extent to which it has addressed these challenges.

## RULE OF LAW AND ANTICORRUPTION

### Project Summary

The United States has provided assistance to the formal and informal justice sectors through several mechanisms. These include the State Department’s Justice Sector Support Program (JSSP), and Justice Training Transition Program (JTTP). These and other rule-of-law and anticorruption programs are shown in Table 3.16.

USAID is designing a stand-alone anticorruption program for Afghanistan. According to USAID, the program will strive to increase transparency and accountability within Afghan government institutions, while also increasing civil society and private sector capabilities to monitor, research, and advocate for anticorruption-related matters.<sup>402</sup> This program is currently in the presolicitation preparation phase.<sup>403</sup>

The State Department’s JSSP objectives include developing a case-management system (CMS) to track cases throughout Afghanistan’s justice system and building the capacity and administrative skills of ministry officials.<sup>404</sup>

In October, JSSP facilitated the efforts of the Criminal Procedure Code Working Group (CPCWG) in drafting guidelines for the implementation of the new Criminal Procedure Code (CPC). The CPCWG is a combined effort

TABLE 3.16

STATE DEPARTMENT RULE OF LAW AND ANTICORRUPTION PROGRAMS				
Project Title	Start Date	End Date	Total Estimated Cost (\$)	Cumulative Disbursements as of 12/15/2014 (\$)
Justice System Support Program II (JSSP II)	6/16/2010	12/31/2014	\$196,969,451	\$169,947,752
Corrections System Support Program (CSSP II)	4/24/2010	12/31/2014	226,780,837	195,492,149
Justice Training Transition Program (JTTP)	1/2/2013	9/30/2015	26,500,000	26,500,000

Source: State, response to SIGAR data call, 12/29/2014.

of the Supreme Court, Attorney General's Office (AGO), High Office of Oversight and Anti-Corruption (HOO), and the MOI. The CPCWG adopted guidelines for the controversial Articles 26 and 27 that contained restrictions on testimony of relatives of the accused. Such restrictions could seriously undermine domestic-violence prosecutions, since relatives are often the only witnesses in such cases. Two JSSP proposals were accepted by the CPCWG: (1) the court may require a relative who is a victim, complainant, or informant of the crime to testify, with the exception of rape victim unwilling to testify; and (2) the Afghan government should provide witness protection when a witness or victim is afraid to testify or is in danger.<sup>405</sup>

The State Department's JTTP provides regional training to justice-sector officials on a wide range of criminal-justice topics.<sup>406</sup> JTTP aims to increase the confidence of Afghan citizens in their justice sector and to achieve two outcomes: (1) to increase the capacity and competencies of Afghan justice sector professionals in delivering justice according to Afghan law and (2) to ensure that Afghan justice institutions are capable of managing the sustainable implementation of training programs.<sup>407</sup>

In November, JTTP issued a mid-term evaluation of the program. The evaluators found that JTTP was broadly successful in achieving the outputs for the first outcome with Afghan partner representatives generally satisfied with the quality of JTTP training.<sup>408</sup> The evaluators did agree with a critique raised in a January 2014 SIGAR audit that some JTTP-associated performance metrics focus only on short-term outputs rather than long-term outcomes of the program.<sup>409</sup>

The evaluation found that JTTP has developed a good monitoring and evaluation methodology; however, it is very difficult to assess JTTP's overall results on the Afghan justice sector.<sup>410</sup> According to the evaluators, "the only way to really assess the results of [JTTP] training and mentoring, whether the behavior and work related practices of the direct beneficiaries is changing, is to find ways of monitoring the performance of the justice sector." While JTTP personnel observe some trials, these ad hoc observations do not provide a comprehensive view of how the justice sector is functioning. According to the evaluation, JTTP decided not to observe trials more systematically.<sup>411</sup> The report concluded that monitoring of the justice system is not something JTTP could undertake alone; however, JTTP should begin to consider whether and how a monitoring component could be built into the project during its final phase of implementation.<sup>412</sup>

According to State, there are a few tools that State uses to assess the state of rule of law throughout Afghanistan. State receives biweekly JTTP reports on legal training courses throughout Afghanistan. According to State, these reports frequently contain details about cases that JTTP students are currently working on. State also utilizes the JSSP-developed case-management system, which currently operates in 18 provinces and has data entered in over 104,000 cases.<sup>413</sup>

## The Supreme Court and the Formal Justice Sector

In late October, the chief justice of the Afghan Supreme Court, Abdul Salam Azimi, resigned.<sup>414</sup>

There were no notable Supreme Court decisions this quarter<sup>415</sup> other than the decision to uphold the appellate court's ruling regarding the Kabul Bank case.<sup>416</sup> For more information on the Kabul Bank case, please see pages 156–157 in this report.

In addition to JTTP and CMS reports, State uses national-level surveys to assess the state of rule of law throughout Afghanistan. One survey is the Asia Foundation's *Survey of the Afghan People*.<sup>417</sup> According to the 2014 survey, 19.1% of Afghan respondents said they had a dispute or formal case within the past two years that they could not resolve internally and took to a **Huquq** department or a local **shura/jirga** for resolution. Among those who took a case forward, most (80.7%) said they are somewhat or very satisfied with the outcome. According to the survey, informal dispute bodies, local shuras and jirgas, were viewed in a more positive light than the formal justice sector.<sup>418</sup> Additionally, over half (54.7%) of Afghan respondents who had contact with the **state courts** in the 2014 said they had to pay a bribe, exchange a gift, or perform a favor.<sup>419</sup>

The World Justice Project also conducts in-depth nationwide polling on the justice system for annual reports on the justice system for State.<sup>420</sup> According to the World Justice Project's 2014 Rule of Law Index, Afghanistan ranks second to last in the global ranking for rule of law. Afghanistan's highest scores include constraints on government power and open government, while their lowest scores related to corruption and civil justice.<sup>421</sup>

## Afghan Correctional System

According to State, the inmate population of Afghanistan's prisons managed by the General Directorate of Prisons and Detention Centers (GDPDC) has increased by 16.7% annually over the past five years. As of November 27, 2014, the GDPDC incarcerated 28,307 individuals. As of October 20, 2014, the Ministry of Justice's Juvenile Rehabilitation Directorate (JRD) incarcerated 1,079 juveniles. These incarceration totals do not include detainees held by any other Afghan governmental organization, as State's Bureau of International Narcotics and Law Enforcement Affairs (INL) does not have access to data for other organizations.<sup>422</sup>

Overcrowding is a persistent, substantial, and widespread problem within GDPDC facilities, although state-funded prison construction has added some new prison beds and presidential amnesty decrees have reduced the prison population significantly. As of November 20, 2014, the total male provincial-prison population was at 290% of capacity, as defined by International Committee of the Red Cross's (ICRC) minimum of 3.4 square meters per inmate. The total female provincial-prison population

**Huquqs:** part of the formal justice system, along with state courts, while shuras and jirgas are part of the informal justice system. The Huquq department is responsible for civil cases, such as disputes over divorce or land rights, and is located in every province and in most districts.

**State courts:** responsible for criminal and other types of cases and are often limited to provincial centers.

**Shuras:** local consultative councils or assemblies of tribal elders who gather to discuss and make collective decisions about social issues, such as the location of a well or a schoolhouse.

**Jirgas:** dispute resolution mechanisms where village elders hear specific individual disputes or conflicts between families or within families.

In some cases, Afghans consult more than one of these bodies. For example, if a dispute over land were to involve violence between two parties, the local Huquq and a state court might both be involved. If the land were to contain a public access road or community well, a local shura might also be involved in the dispute-resolution process.

Source: The Asia Foundation, *Survey of the Afghan People*, 2014, p. 96.

was at 123% of the ICRC-recommended capacity. Information on the capacity of GDPDC-operated district detention centers and the JRD's juvenile-rehabilitation centers is not available. However, anecdotal reporting by INL advisors visiting facilities indicates that overcrowding is a substantial problem in many provinces.<sup>423</sup>

There were three large hunger strikes by prisoners reported in October 2014: 130 detainees at the Counternarcotics Justice Center; approximately 1,000 prisoners in Herat; and 100 prisoners in Bamyan. Prisoners cited dissatisfaction with recent court decisions, having to surrender their cell phones, and failure to benefit from a presidential decree decreasing sentences as justifications for the hunger strikes.<sup>424</sup>

## Anticorruption

Apart from reopening the stalled court investigation of the \$935 million Kabul Bank fraud scandal, Afghan anticorruption efforts showed no significant progress for most of the quarter. On October 1, 2014, President Ghani issued a decree ordering the Supreme Court to pursue the Kabul Bank case and the AGO to assist the courts and prosecute all those criminal associates and individuals who were involved in the Kabul Bank crisis.<sup>425</sup> According to the U.S. Department of Justice (DOJ), as of early January 2015, it was too early to tell if the Kabul Bank case represents a genuine change in the Afghan government's will to hold corrupt actors accountable.<sup>426</sup>

In October 2014, Ghani vowed to shake up the AGO. "People must trust it," he wrote in a Twitter message.<sup>427</sup> In early December, Attorney General Muhammad Ishaq Aloko hosted a farewell gathering. However, he remained in office when he found out an acting head was not listed to replace him.<sup>428</sup>

On November 11, an Afghan appellate court upheld convictions of two former senior officials and nine lower-level employees of crimes related to the 2010 Kabul Bank collapse. The two Kabul Bank officials were each sentenced on three counts and ordered to serve concurrent prison terms amounting to 10 years. In addition, one official was fined \$513 million and the other was fined \$278 million. Nine other Kabul Bank employees received lesser fines and sentences. In addition, according to news reports, the court also ordered assets frozen for 19 individuals and companies implicated in fraudulent borrowing schemes that led to the bank's collapse, pending loan repayment.<sup>429</sup>

On December 4, 2014, the Superior Court and the Public Security Court of the Afghan Supreme Court upheld the appellate court's ruling. The AGO reported that it would implement the Supreme Court's ruling and as of early December had recovered \$12 million since the case was reopened in October.<sup>430</sup> For more information on the Kabul Bank case, please see pages 156–157 in this report.

The *New York Times* reported in December that a leading opium trafficker on the United States' kingpin list, Haji Lal Jan Ishaqzai, bribed his

way out of jail. Ishaqzai's 20-year prison sentence had previously been highlighted by U.S. government officials as a sign of progress in fighting corruption and narcotics.<sup>431</sup>

According to the Asia Foundation, corruption remains a serious problem for Afghans. In 2014, 62.4% of Afghans said corruption is a major problem in their daily life, an increase from 2013 when 55.7% found it to be a major problem.<sup>432</sup> When asked how often they had paid a bribe, given a gift, or performed a favor for a list of different authorities and situations, 57.6% of Afghans said they encountered corruption in their interaction with at least one authority or in a least one situation in the past year. This overall rate of exposure to corruption has ranged from a low of 50.6% of Afghans in 2008, to 65.5% in 2011. Judicial and court officials along with municipal and district officials were the officials most cited for demanding a bribe.<sup>433</sup>

By all accounts, according to the DOJ, the Afghan central government is riddled with patronage, nepotism, bribery, embezzlement and misappropriation or other diversions of public and private property, influence peddling, abuse of office, illicit enrichment, laundering of criminal proceeds, concealment of crimes constituting corruption, and obstruction of justice. There is virtually no part of the central government, or the governments in the districts and provinces, that is not affected and weakened by public corruption.<sup>434</sup>

## **Afghan Attorney General's Office**

According to State, there were no significant changes in the technical capacity or effectiveness of the AGO. The AGO declined offers from the U.S. government to train AGO prosecutors in novel investigative methods. As of December 29, State reports that there have been no staffing changes at the AGO since the new Ghani administration.<sup>435</sup> According to DOJ, the primary challenge to Afghan government anticorruption efforts is the unwillingness of the AGO to pursue complex corruption cases.<sup>436</sup>

According to State, the Anti-Corruption Unit (ACU) of the AGO is able to prosecute lower-level corruption cases, but faces obstacles prosecuting higher-level corruption due to a lack of political will. The ACU has been unreceptive to State and DOJ engagement and stifles most cases referred by the Major Crimes Task Force (MCTF). The U.S. Embassy Kabul's Office of the Justice Attaché has refocused their assistance on the Internal Control and Monitoring Unit and Financial Dispute Resolution Committee where there is greater receptivity.<sup>437</sup>

The MCTF is the investigatory arm for the AGO internal-control and monitoring unit.<sup>438</sup> According to State, the MCTF continues to be an increasingly capable investigatory force, but is stymied by the ACU's refusal to pursue corruption cases.<sup>439</sup> This quarter, Resolute Support Mission (RSM) classified the information SIGAR uses to report on DOD's view of the MCTF. The questions SIGAR asked about these efforts can

be found in Appendix E of this report. SIGAR is reporting to Congress on DOD's views on the MCTF in a classified annex.

## **Independent Joint Anti-Corruption Monitoring and Evaluation Committee (MEC)**

According to State, the Independent Joint Anti-Corruption Monitoring and Evaluation Committee (MEC) continues to demonstrate competent administrative and technical capacity. State notes, however, that the MEC lacks the authority to do more than illuminate poor or corrupt practices.<sup>440</sup>

During the quarter, the MEC issued reports on land usurpation and issues related to the import of pharmaceuticals.

According to the MEC, over 240,000 hectares of land has been usurped in the past 10 years. Although the roots are historical, widespread corruption, insecurity, the lack of a unified land-administration system, weak law-enforcement, the extensive presence of warlords, the lack of land registration and surveying, and the absence of adequate legal provisions have played important roles in spreading this problem. The MEC also found that only 34% of all land has been surveyed and registered. Survey and registration of lands has a very basic role in preventing usurpation and identifying usurpers.<sup>441</sup>

The MEC found that high import volume and low surveillance and monitoring capacity facilitates corruption in the pharmaceutical-importation process. According to the Ministry of Public Health's Pharmaceutical Affairs Directorate and Importers Union, at least 50% of Afghanistan's pharmaceutical import market is composed of illegally imported products. According to the MEC, the entire importation process is highly vulnerable to corruption, from registration of foreign pharmaceutical companies to laboratory-based quality control. There are enormous financial incentives to engage in illicit importation of pharmaceuticals. This has led to increased smuggling and to the creation of an entire industry dedicated to producing and importing low-quality pharmaceuticals into Afghanistan.<sup>442</sup>

## **Security Services**

According to DOD, the MOD and MOI both lack the will to pursue transparency and oversight with the result that accountability is nonexistent within both institutions.<sup>443</sup> This quarter RSM classified the information SIGAR uses to report on corruption within the MOD and MOI. The questions SIGAR asked about this issue can be found in Appendix E of this report. SIGAR is reporting on corruption within the MOD and MOI in a classified annex.

## **Ministry of Defense**

According to DOD, the MOD made little progress last quarter with respect to effective transparency and accountability policies and processes. While

transparency, accountability, and oversight processes exist, they are not enforced due to the substantial level of corruption within the senior leadership of the MOD.<sup>444</sup>

The MOD Inspector General (IG) is relatively well resourced, with appropriately trained personnel. However, the MOD IG is primarily focused upon protecting members of his political network and obstructs investigations into allegations of criminal behavior by its senior members.<sup>445</sup>

The General Staff (GS) IG organization is appropriately staffed, and some improvements to the structure and training of the GS IG are being planned in order to improve future effectiveness. The GS IG is considered to be relatively effective at discovering and reporting corruption issues, but MOD leadership obstructs any meaningful attempt by the GS IG to combat corruption. According to DOD, GS IG has conducted many special corruption investigations in various Kabul-based units and follows an annual inspection plan for inspections of the ANA Corps. But when the investigations discover criminal evidence and are turned over to MOD Legal for prosecution as a criminal case, MOD leadership obstructs the prosecution.<sup>446</sup>

Although each of the six ANA corps has members assigned to Transparency and Accountability Committees (TACs), all TAC members are members of corps staff (chaired by the deputy corps commander), and never report any information critical of the corps commander. Because of this lack of independence of the TACs, the GS IG assesses the concept of the TACs to be ineffective.<sup>447</sup>

## **Ministry of Interior**

According to DOD, MOI anticorruption initiatives are insufficient to address corruption within the MOI. The minister of interior has indicated his support for anticorruption work, but it is generally thought that limited progress will be made as long as the current MOI IG remains in place. The crucial stumbling block remains the lack of enforcement and proportional punishment issued to violators, both large and small, a lack of moral will in the senior leadership, and a governmental system rife with cronyism and patronage alliances developed over many years.<sup>448</sup>

## **HUMAN RIGHTS**

### **Refugees and Internal Displacement**

The UN High Commission for Refugees (UNHCR) estimated as of December 17, 2014, that more than 291,800 people have crossed from Pakistan into Afghanistan's Khowst and Paktika Provinces due to large-scale Pakistan military operations in neighboring North Waziristan this past June. According to State, registrations and assessments are ongoing to determine the total population and assess needs.<sup>449</sup>

State reported no other large increases or decreases in refugee movements and no new developments affecting Afghan refugees in Pakistan or Iran during this quarter. UNHCR recorded 2,421 Afghan refugees returning in October and November compared to 4,447 returning in the previous quarter. In the first eleven months of 2014, returns totaled 16,266 individuals, which is 57% lower than the 37,730 returns during the same period in 2013.<sup>450</sup>

Following the December school attack by militants of Afghan Pashtun origin in Peshawar, Pakistan, that left 152 students and teachers at an army-run school dead, the provincial government of Khyber Pakhtunkhwa demanded that the Afghan refugees remaining in the region be forced to return to Afghanistan within one month.<sup>451</sup> The Pakistani federal government, however, stated that there was no evidence that registered Afghan refugees were involved in terrorism and that registered refugees would not be repatriated against their will. There are approximately 1.5 million registered Afghan refugees and an estimated 1 million unregistered Afghans living in Pakistan.<sup>452</sup>

As of December 11, UNHCR recorded a total of 782,162 registered conflict-affected Internally Displaced Persons (IDPs) in Afghanistan, compared to 612,148 as of September 30. According to State, the actual number of internally displaced could be much higher and is difficult to verify. UNHCR reported the top 10 provinces of destination for IDPs were Ghazni, Wardak, Ghor, Helmand, Kunduz, Badghis, Kandahar, Farah, Nangarhar, and Logar. The provinces of origin were the same as those of destination. Most of displaced left insecure rural areas and small towns to seek the relative safety and government services in larger towns and cities of the same province.<sup>453</sup>

According to State, implementation of the February 2014 Afghan National IDP Policy has slowed due to the delays in forming the new Afghan government's cabinet. State does not anticipate any substantive implementation of any initiatives, including the IDP policy, by the Afghan Ministry of Refugees and Repatriation and Afghanistan National Disaster Management Authority until new ministers are in place.<sup>454</sup>

## Gender

In December, SIGAR issued a comprehensive audit report on U.S. assistance to Afghan women. Although the DOD, State, and USAID reported gains and improvements in the status of Afghan women in fiscal years 2011 through 2013, SIGAR found that there was no comprehensive assessment available to confirm that these gains were the direct result of specific U.S. efforts. Further, although the agencies monitor and evaluate most of their individual efforts at the program or project-level, none of the agencies has compiled this information into an agency-level assessment of the impact these efforts have had on the lives of Afghan women. Together, DOD, State, and USAID reported spending at least \$64.8 million on 652 projects,

# GOVERNANCE



**USAID Administrator Rajiv Shah** speaks in Kabul to formally launch the Promote program (Promoting Gender Equity in National Priority Programs). (State photo)

programs, and initiatives to support Afghan women in fiscal years 2011 through 2013.<sup>455</sup>

SIGAR also found that agency responsibility for projects and programs to benefit Afghan women was fragmented. For example, multiple DOD commands and State bureaus and offices are responsible for implementing, tracking, and reporting on the departments' efforts relating to Afghan women. As a result, no single DOD or State office was able to readily identify the full extent of their department's efforts to support Afghan women. In addition, USAID officials told SIGAR that although gender-equality and female-empowerment policy goals are integrated into all of their programs, it was not possible to track funding by gender issue in the agency's financial-management system, and its implementing partners did not separate funding by gender issue.<sup>456</sup>

According to USAID, they are "inundated with information on the nature of gendered relations in Afghanistan." Each year, USAID operating units report on gender issues. USAID also reports that it has completed 47 program-specific gender analyses to inform project design. USAID is also planning to conduct two large-scale surveys: the Demographic and Health Survey and Promote Baseline that will aim to provide valuable household level data across Afghanistan. USAID also conducts video meetings and chats to help better monitor program meetings and trainings.<sup>457</sup>

According to the audit, officials from all three agencies reported that although the number of projects, programs, and initiatives specifically intended to benefit Afghan women will be consolidated after 2014, efforts to support Afghan women will continue and, in some cases, their funding will increase. However, the U.S. government's increasingly reduced ability to monitor activities, the lack of agency-level assessments, and ongoing challenges to implementing efforts, will make it difficult for agency leaders and the Congress to understand and make decisions on how best to support Afghan women in the future.<sup>458</sup>

In November, the USAID Administrator made a second, well-publicized announcement launching the Promote partnership.<sup>459</sup> This followed a July 2013 announcement introducing the Promote partnership that will aim to assist over 75,000 Afghan women achieve leadership roles in all parts of society, from business to academia and in politics and public policy, over five years.<sup>460</sup> USAID has committed \$216 million to Promote and hopes to raise \$200 million from other international donors.<sup>461</sup> Thus far, USAID has awarded one contract for one of four Promote components (Women's Leadership Development) with an estimated cost of \$42 million.<sup>462</sup>

In October, the Ministry of Justice-led Criminal Law Reform Working Group (CLRWG) decided to partially incorporate the Law on Elimination of Violence Against Women (EVAW) into the draft penal code. EVAW criminalizes acts of violence against women including physical abuse, sexual assault, child marriage, forced marriage, domestic violence, and the

exchange of women to settle a dispute (known as *baad*). The law imposes long prison terms for many of these crimes.<sup>463</sup>

The EVAW was drafted in 2008 and enacted by presidential decree; however, questions remain as to the law's constitutionality. In May 2013, the law was withdrawn without a parliamentary vote after some conservative members of parliament declared it un-Islamic. According to a UNAMA member of the Criminal Law Reform Working Group, incorporating the criminal portions of the EVAW into the draft penal code could overcome concerns relating to the law's validity.<sup>464</sup>

JSSP identified a potential hazard in incorporating EVAW into the draft penal code. According to JSSP, when the draft penal code is finalized, it will include a provision that identifies all laws that are repealed on the effective date of the new law. In accordance with standard practice, specific articles of EVAW will be identified in this provision as repealed since the new penal code will contain those same articles. There is a possibility parliament would delete the EVAW provisions of the draft penal code before passage. At the same time, the provision that repeals provisions of EVAW may remain, resulting in the dismantling of EVAW.<sup>465</sup>

In November, the nongovernmental aid organization Oxfam issued a report that raised concerns regarding the role of women in future peace talks. The report found that despite enormous gains for Afghan women, there is a real risk that these gains may decrease. Oxfam cites parliamentary opposition to EVAW, the continued practice of *baad*, and the lowering of mandatory quotas for women in provincial council positions as signs of a shift towards an increasingly conservative attitude and erosion of support for women's rights across the country. Additionally, Oxfam finds that negotiations and peace talks with insurgent groups have taken place without Afghan women's knowledge, input or involvement. The report called for Afghan government and international community support for women's meaningful participation in all peace-process initiatives including through sustained support for women's organizations and for women's capacity building to take part in high-level negotiations.<sup>466</sup>