1. Project Data:

Country: Afghanistan  
Project ID: P107372  
Date Posted: 04/10/2013

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Prepared by: Clay Wescott  
Reviewed by: Robert Mark Lacey  
ICR Review Coordinator: Ismail Arslan  
Group: IEGPS2

2. Project Objectives and Components:

a. Objectives:

According to the Project Proposal (page 6) and Grant Agreement (page 4) the project’s development objective is to strengthen a centralized state justice system and to increase access to justice for the Afghan people.

b. Were the project objectives/key associated outcome targets revised during implementation?

No

c. Components:

There were three components:

1. Enhancing Capacity of Justice Sector Institutions (US$23.6 million at appraisal, US$ 13.82 million actual)
   Improvements in human resources management, physical infrastructure and information and communication technology to improve working conditions for judges, prosecutors and other justice sector officials, and provide them greater skills related to the resolution of legal disputes.

2. Empowering People (US$2.4 million at appraisal, US$ 2.55 million actual)
   Support for legal aid and legal awareness raising, targeting the most economically vulnerable citizens, together with legal aid providers and policy makers.

   Improving capacity within justice institutions to facilitate effective implementation of the National Justice Sector Strategy (NJSS), National Justice Program (NJP) and the project.

d. Comments on Project Cost, Financing, Borrower Contribution, and Dates:
Project cost: US$7 million of the original allocated amount was cancelled. The reason for the cancellation was that it was determined that some of the proposed works under component 1 were unlikely to be completed within the project timeline. The objectives and other key features of the project were unchanged. Total disbursement was US$18.04 million (ICR, p. 12).

Financing: US$27.75 million was allocated through the Afghanistan Reconstruction Trust Fund (ARTF), reduced to US$20.75 following the cancellation. Actual costs were US$18.04 million. Actual component costs were in total US$116,256 less than total disbursement shown in Section 2c, because of return of funds from provinces (Project proposal, page 12).

Borrower contribution: There was no financial contribution.

Dates: The ARTF approval was May 19, 2008, and the Bank approval was July 5, 2008. The initial closing date was December 30, 2009, to align with the ARTF closing date. Once the ARTF was extended, the project could be extended in December 2009 for an additional 1.5 years. Although there was a level 2 restructuring approved by the Country Director June 27, 2011, which extended the closing date for an additional 6 months to December 30, 2011, the objective was not changed. The reason for the second extension was slower than expected implementation due to a worsening security situation, and the resultant difficulty of attracting international expertise.

3. Relevance of Objectives & Design:

a. Relevance of Objectives:

Substantial. The objective is consistent with the interlocking themes supported by the Bank's Interim Strategy Note for fiscal year (FY)12-14 of building the legitimacy and capacity of institutions, and equitable service delivery, particularly services that target injustice and concerns likely to provoke violence (Interim Strategy Note [ISN]; ii). It is also consistent with the Government's National Priority Program Governance Cluster on law and justice, and with the broader Bank findings that strengthening legitimate institutions to provide justice is critical to breaking the cycle of violence (World Development Report, 2011: 2). The Project Proposal acknowledges the need to establish a legal system that reconciles and connects central justice institutions with sharia and customary law, and to end the isolation between state courts and traditional jirgas and shuras, which provide a wide variety of ways to help citizens resolve their disputes, drawing on local customs and norms. However, the focus of the objective on the centralized justice system as an initial priority is appropriate.

b. Relevance of Design:

Modest. The statement of objectives is clearly stated in two parts. The results framework provides a plausible connection between strengthening a centralized justice system and increasing access to justice, and a reasonable link between the activities financed by the project and the desired results. However, the results framework lacked the needed indicators to measure improvement in the performance of the justice system. Given the difficult context which is clearly articulated in the Project Proposal (page 4-6), it was reasonable to implement quick impact sub-projects such as justice centers of excellence, basic infrastructure, self-governing professional structures, and measures to support disadvantaged groups. These would show that improvements are possible, while providing a foundation for deeper improvements. The design was also an improvement over previous ad hoc and fragmented measures supported by donors.

But, the design was overambitious and underestimated the time required to implement the project; hence the long delays. As pointed out in the ICR (page 14), the aspirational objectives could not be fully achieved during the short time frame of the project. On the other hand, this was just an initial phase of support, providing the foundation for continuing support beyond the operation.

4. Achievement of Objectives (Efficacy):

To Strengthen a centralized state justice system. Substantial. There were 16 indicators in the monitoring framework to track achievement of this sub-objective, including 15 project development objective (PDO) indicators and one intermediate outcome indicator. One target was exceeded: designing at least 15 construction projects (24 designs were completed, although no new construction was implemented). Five targets were achieved, including organizing international conferences and local gatherings, improved maintenance of current assets, vehicles delivered to users and used, 40 courts equipped and furnished, emergency hardware installed in headquarters. Seven targets were partially achieved, including a High Judicial Council responsible for human
resources management, skills of legal professionals increased, human resources management capacity to improve, training improved, operationalizing legal libraries (28 provincial and 3 central libraries established, but not operational by project close), asset management capacity strengthened, networks in the Ministry of Justice, and Attorney General’s office installed and information and communication technology assessments completed. There were 3 indicators where achievement is unknown: making an independent council responsible for judges operational, repairing 5 courts, the Ministry of Justice, and Attorney General’s offices, and agreement on functions and composition for Council of Judges reached. However, even with the achievement or partial achievement of 12 out of 15 targets, the ICR does not report on whether these output targets have translated into improved performance of the justice system. To find some indication of this, IEG turned to Asia Foundation, 2011, Survey of the Afghan People. This highly regarded survey of 6348 respondents was conducted by a team of 589 trained interviewers, and has an estimated sampling error of +/-4.1 percent at the 95 percent confidence interval. According to the survey, there are reported improvements in accessibility of state courts from 68% in 2009 to 77% in 2011, and in perception that courts are fair and trusted (from 50% to 59%), that they are not as corrupt as other institutions (from 47% to 56%), that they follow local norms and values (from 49% to 57%, that they are effective (from 51% to 58%), and that they resolve cases timely and promptly (from 40% to 47%). It should be underlined that it is difficult to assess the accuracy of perception data in a context such as Afghanistan, and also difficult to attribute any improvements to the Bank project. However, given the limitations of the previous ad hoc, fragmented support by donors, the more coherent and holistic approach taken by the current project, and the role of the Bank in coordinating other donor support through ARTF and other means, it is reasonable to surmise that the project was a factor in strengthening judicial capacity, and that this contributed to the improvements achieved.

Increasing access to justice for the Afghan people. Substantial. Although not clear from the ICR, there is evidence indicating that one out of eight targets on legal aid was exceeded, and seven were achieved. Legal aid offices were established in eight provinces, exceeding the original target of five provinces. They served at least 2000 people. In addition, the MOJ used services of the International Legal Foundation (ILF) to process about 2900 cases and file 980 appeals, and the number of cases received/resolved through legal aid offices is increasing. A legal aid fund was created. Cooperation with ILF resulted in the expansion of the system by 206 trained lawyers and 14 trained paralegals working in 12 provincial offices. Legal representation and advice has involved a broad range of cases e.g. murder, terrorism, kidnapping, forgery and counterfeit, narcotics, theft, drinking and intoxication, violence against women, and traffic cases. In addition, the MOJ developed a system for subcontracting private lawyers for cases in absentia. The system was piloted under the project preparation grant for the second phase. It is currently used by the UNDP in their legal aid project. Both service delivery arrangements included specific M&E systems which allowed the MoJ to oversee and reimburse service providers for their services.

Two targets on legal awareness were also achieved: legal information disseminated, and communities and their leaders educated. Legal Awareness activities were carried out in Nangarhar, Kunduz and Balkh through Legal Awareness Offices funded by the Project. By July 2011: in Nangarhar around 700 brochures and 5 different handouts were distributed; in Kundoz 1200 posters, 6000 brochures, 400 stickers, 1840 volumes of books, 300 copies of Legal bimonthly magazines were distributed. In Balkh 57 radio conferences, 35 workshops with elders, university students, youths in custody and others have been held; likewise, 700 brochures and 1221 posters have been distributed. Meetings with around 230 village representatives and 260 tribal elders have been held and training for 250 school students was conducted.

It isn’t possible to tell from the ICR if the result has been increased access to justice. The survey data referenced above suggests that access to justice may have improved. On the other hand, the Interim Strategy Note FY2012-14 states that support by the Bank and other donors of conventional justice reform programs focusing on formal system structures and training justices has had a very modest impact to date (p. 26). Given the short duration of the project, and the fact that one half of disbursement took place in the last year, a modest impact would be expected.

5. Efficiency:

Substantial. Due to security and other risks, the cost of providing technical assistance in the project was considerably higher than in other countries in the region, though no details are provided in the ICR. Given the design of strengthening the formal centralized justice system, the use of international expertise was justified. The use of the International Legal Foundation (ILF) - Afghanistan was criticized by local lawyers who believed they could provide the same services for less; however, as they were potential competitors, their claim would need to be subject to scrutiny. An audit found irregularities in the ILF contract, and the Ministry of Justice decided not to continue the contract. The audit questioned 50 out of 2600 cases, but the Task Team Leader believes that this was largely driven by political considerations, and was not an impartial, robust process.
6. Outcome:

The objective was substantially relevant for the country context, the government’s strategies for justice reform, and the Bank’s strategy at project appraisal and completion. The design was modestly relevant. Although there were clearly stated objectives, a results framework reasonably linking project support to these objectives, and an understanding of the difficult context, the design was over ambitious, and the results framework lacked the needed indicators to measure performance of the judicial system. Most planned outputs were achieved or partially achieved under both sub-objectives. Efficiency is rated substantial, with security and other risks justifying the relatively high costs.

a. Outcome Rating: Moderately Satisfactory

7. Rationale for Risk to Development Outcome Rating:

The risks identified in the project proposal of, inter alia, a volatile political and security situation, weak capacity of both implementing agencies and private sector contractors, commitment by the leadership to the reforms, and judicial corruption, are assessed to be high risks at project completion. In addition, there is the risk pointed out in the ICR that operation and maintenance budgets will not be sufficient to maintain the judicial infrastructure provided by the project. A mitigating factor is the Bank’s Justice Service Delivery Project approved in March, 2012. The new project has been designed building on the lessons from the project being evaluated in this review, and will provide support through June, 2017.

a. Risk to Development Outcome Rating: High

8. Assessment of Bank Performance:

a. Quality at entry:

The approach was to design a short term intervention that would produce quick wins in areas where there was Government commitment, facilitate learning about the sector, build relationships with clients, and provide the foundation for a more robust future program. The design was well aligned with the National Priority Programs and the Bank’s Interim Strategy Notes, and built on previous and ongoing support to the justice sector from, inter alia, the US Agency for International Development (court administration and legislative drafting), Italy and Germany (legal education and training), and the UN Office on Drugs and Crime (training on juvenile justice). It also built on human resources management and capacity improvements supported by the European Commission and the Bank, including the Priority Reform and Restructuring program, and provision of two high level specialists in the Ministry of Justice under the ARTF’s Management Capacity Program implemented by the Bank. The use of ARTF funding helped to ensure that ARTF donors coordinated their support in the sector. Most of the activities were simple and straightforward, such as design of construction, small repairs, and procurement of equipment, IT, cars, books and legal materials and creation of legal libraries. The complex reforms included Legal Aid and human resources management reforms. However, in both cases the proposed activities were supposed to pilot a new system; prepare a base for future change; or implement reforms already tested in the country (e.g. pay and grading reforms). The reforms were “custom made” (best fit practice), designed in very close cooperation with judicial institutions.

There were two areas that could have been strengthened. First, the number and extent of planned outputs was overambitious, given the many risk factors clearly spelled out in the project proposal. The risks of a
volatile political and security situation, and weak capacity of both implementing agencies and private sector contractors were all anticipated in the project proposal, but the proposed mitigating measures were insufficient to address them. The approach of focusing on centralized judicial institutions was problematic, as it required highly specified content that would be challenging for the low capacity institutions to implement. In addition, this approach made it likely that international consultants would be needed, who would be hard to recruit given the security risks. Also, as pointed out in the Mid-term Review, the implementing institutions were reluctant to use international specialists because of their high cost, and due to communication and cultural barriers. An observation in the ISN FY2012-14 is pertinent: "Building an effective legal and justice system will take a long time and will only gain legitimacy if embedded in local customs and norms, rather than imported mechanisms." In line with this finding, the Bank's follow on Justice Service Delivery Project, approved in 2012, is supporting community justice partnerships that bring together local judicial institutions with community organizations and leaders to improve the scope and quality of legal services in targeted areas.

Second, as discussed below, the monitoring framework did not provide a measure of improved performance of the justice system, other than improvements in specific legal processes. Thus, it is difficult to know if the achievements reported in Section 4 resulted in achievement of the broader objectives. The ICR explains a possible reason for these shortcomings: that the Bank faced external pressure to approve the project quickly, before the 2009 and 2010 elections, and as a result skipped the concept stage review. The ICR also states there was limited data available at the time for the appraisal team to work with. For example, the Ministry of Justice had no data on numbers of judges and prosecutors, numbers actually showing up for work, and their case load. In the case of many district courts, all proceedings were oral, and there was no written record since not all judges were literate. The report: Afghanistan: Judicial Reform and Transition Justice International Crisis Group Asia Report No. 45, 2003, was available to the team, though it was out of date. However, there were lessons to build on from extensive prior donor support (see Project Proposal, Annex 8).

**Quality-at-Entry Rating:** Moderately Satisfactory

**b. Quality of supervision:**

Supervision during the first 1 1/2 years of the project was inadequate to resolve serious implementation delays. Although there are constraints on the size of supervision teams including security restrictions, housing space, and the limited number of specialists willing to work in the country, greater effort should have been made to provide support on infrastructure and IT, given the complexity of the holistic support, and the inexperience of the counterparts. It was not until the third Implementation Status Report of December 31, 2009, following the Mid-term Review, that implementation performance ratings were downgraded to moderately unsatisfactory, and proactive measures started to be taken including the relocation of the Task Team Leader to Afghanistan. These measures improved project performance.

**Quality of Supervision Rating:** Moderately Unsatisfactory

**Overall Bank Performance Rating:** Moderately Satisfactory

**9. Assessment of Borrower Performance:**

**a. Government Performance:**

The National Justice Program and National Justice Sector Strategy are indicators of strong Government ownership for reforms in the justice sector. The enabling institutional environment was strong, for example the Priority Reform and Restructuring (PRR) program allowed recruitment and retention of key staff through functional reviews, a new pay and grading framework, and salary increases, and public financial reforms facilitated proper recordkeeping of disbursements and internal controls. However, key shortcomings included lack of broad-based stakeholder consultation, and lack of support from heads of judicial institutions in the first year of implementation as they focused on the Presidential and Parliamentary elections in 2009 and 2010. In addition, the provision of salary increases under the PRR removed a key incentive for human resources management reform for judges, which was to be supported by the project. There were also delays in staffing the project support unit (see Section 9b below).
b. Implementing Agency Performance:

It took the first two years to get a well staffed project support unit in place, and implementation was delayed in the three participating institutions until they became familiar with the Government's financial management and procurement systems that were used to deliver project resources. Performance was also uneven, with the Supreme Court and Ministry of Justice performing relatively better than the Attorney General's Office, which was the weakest performer, with low capacity, and where efforts to shift to merit-based appointments were not successful. Prosecutors first agreed to reforms, but then managed to change rules to turn themselves into a special professional group, so that they got increased pay without reform, despite the fact that only 20% of prosecutors working in provinces have a university education (Project Proposal, page 21) and some have never left their district.

Implementing Agency Performance Rating: Moderately Unsatisfactory

Overall Borrower Performance Rating: Moderately Unsatisfactory

10. M&E Design, Implementation, & Utilization:

a. M&E Design:

The monitoring framework includes many output indicators that are plausibly associated with the objective. However, there is no indicator to measure whether performance of the centralized justice system actually improved, and inadequate indicators on whether citizens had improved access to justice. As discussed above, this makes it difficult to assess whether or not the project's development objectives were achieved. In addition, many indicators have no baseline, no target, and/or no clear statement of achievement, indicating inadequate design, and over ambition given the weak capacity of implementing institutions. In addition, seven indicators that could and should have had baselines did not. M&E was the responsibility of the Program Oversight Committee, comprising the Afghan Chief Justice, Minister of Justice, Attorney General, Minister of Finance, and other members selected by the Government. Quarterly reports were to be compiled by the Program Support Unit and the Project Unit, as the basis for supervision by the Bank. The Program Support Unit compiled reports every six months for reporting to ARTF.

b. M&E Implementation:

Data were collected and reported in five Implementation Status and Results Reports on most indicators. However, in some cases status was reported as under preparation, but there is no record that progress toward achieving outputs in such cases were subsequently reported on.

c. M&E Utilization:

The weak performance shown in key indicators where information had been collected at the time of the 2009 mid-term review was the basis for extending the project duration, and scaling back the proposed funding in light of emerging risks and implementation delays.

M&E Quality Rating: Modest

11. Other Issues
a. Safeguards:

No safeguards policies were triggered by this Category “C” technical assistance project.

b. Fiduciary Compliance:

Implementing agencies had little initial experience working with Government financial systems, since previous support had been donor executed. However, over time the implementing agencies effectively used these systems, maintaining proper records and internal controls initially through an account maintained by the Ministry of Finance, and later through the Afghanistan Financial Management Information System. Although internal audit was not satisfactory, there was an unqualified external audit opinion of the Control and Audit Office of Afghanistan for all the three years, except for a small outstanding query for unsubstantiated expenditures of less than US$38,000.

c. Unintended Impacts (positive or negative):

None

d. Other:

None

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NOTES:
- When insufficient information is provided by the Bank for IEG to arrive at a clear rating, IEG will downgrade the relevant ratings as warranted beginning July 1, 2006.
- The "Reason for Disagreement/Comments" column could cross-reference other sections of the ICR Review, as appropriate.

13. Lessons:

Lessons include the following, drawing on the findings and lessons in the ICR:

- Multi-donor funding mechanisms can improve donor coordination, but coordination among government bodies may remain problematic;
- Thorough project preparation is essential, even in emergency situations;
- Designs should take into account implementation challenges such as inexperience of implementing institutions in working with Government financial and procurement systems, the time needed to recruit and train qualified specialists, and the varying levels of commitment to different reform objectives by key stakeholders within Government and implementing institutions;
- Human resources reforms should be integrated into overall civil service reform programs, and be properly sequenced, with pay reform held back as an incentive for adopting other crucial measures;
- More support than was available in this case is needed to build robust M&E systems with baselines, adequate data collection tools, and measurable targets not only for outputs, but for performance outcomes of the sector;
- Great care is needed in judicious use of international expertise, taking into account the difficulties and
expense of recruiting them in risky environments, and the risks of communication and cultural
misunderstandings.

14. Assessment Recommended?  ● Yes  ○ No

Why?

Quality-at-entry shortcomings stemmed in part from shortcuts taken that were justified based on the urgency of
going started; yet the result was serious implementation delays, and weaker than expected performance. There
is also the question: Is it suitable to focus on formal, centralized judicial institutions, rather than traditional and
customary institutions, in a fragile setting? Such an effort requires highly specified content that is challenging for
the low capacity institutions to implement. In addition, this approach makes it likely that international consultants
will be needed, which may be hard to recruit given the security risks, and may be less effective than desired due
to cultural misunderstandings. It would be useful to see if these are recurring issues, and whether they have
been better addressed using alternative approaches such as the Bank’s Justice for the Poor Program.

15. Comments on Quality of ICR:

The ICR provides a frank assessment of the achievements and challenges faced. However, there are two major
shortcomings: first, the ICR does not report on whether output targets have translated into outcomes in the form
of an improved performance of the justice system; and, second, the ICR provides not enough assessment of
efficiency in the use of project resources. There are, in addition, some inconsistencies, for example between the
results framework analysis, summarizing achievements against PDO indicators, and the Monitoring and
Evaluation Framework on pp. 64-66. The closing date and the amount of actual project costs listed in the ICR on
p. i are both incorrect. There is no reference in the ICR to the ARTF grant agreement. Finally, some important
information to carry out this review had to be obtained from sources outside of the ICR.

a. Quality of ICR Rating: Unsatisfactory