



Project Information Document (PID)

Concept Stage | Date Prepared/Updated: 08-Feb-2020 | Report No: PIDC27642

**BASIC INFORMATION****A. Basic Project Data**

Country Afghanistan	Project ID P171657	Parent Project ID (if any)	Project Name Incentivizing Reforms in the Attorney General's Office (P171657)
Region SOUTH ASIA	Estimated Appraisal Date Apr 06, 2020	Estimated Board Date May 05, 2020	Practice Area (Lead) Governance
Financing Instrument Investment Project Financing	Borrower(s) Ministry of Finance	Implementing Agency The Attorney General's Office of Afghanistan	

Proposed Development Objective(s)

The project development objective (PDO) is to strengthen the human resources and performance management capacity of the Attorney General's Office and hence contribute to the enhancement of the prosecutorial capacity of AGO in the medium to long term.

PROJECT FINANCING DATA (US\$, Millions)**SUMMARY**

Total Project Cost	20.00
Total Financing	20.00
of which IBRD/IDA	0.00
Financing Gap	0.00

DETAILS**Non-World Bank Group Financing**

Trust Funds	20.00
Afghanistan Reconstruction Trust Fund	20.00



Environmental and Social Risk Classification

Moderate

Concept Review Decision

Track I-The review did authorize the preparation to continue

B. Introduction and Context

Country Context

1. Substantial improvements in development outcomes have been observed in Afghanistan since 2001, particularly in expanded access to water, sanitation and electricity, education, and health services. Macroeconomic management remains strong, government revenues have grown rapidly since 2014, and the government has engaged in an impressive range of business environment and public financial management reforms.
2. However, some gains are now eroding, and risks are rapidly rising. Economic growth has slowed substantially with a significant reduction in international troop numbers and increased insecurity since 2014. Civilian casualties remain at unprecedented levels, with 8,239 killed or wounded during the first nine months of 2019 (higher than 2017 and 2018 levels). Political uncertainty has also intensified, with presidential elections held in November 2019 but no clear result yet available. Various efforts towards a political settlement with the Taliban have proceeded throughout 2019, but the probability of significant improvements in the security situation in the short run seems low. The level and duration of ongoing international security and aid support are unclear.
3. The economy grew by an estimated 2.9 percent in 2019. The agricultural sector grew rapidly, reflecting favorable weather conditions and recovery from the recent drought. Strong agricultural growth was offset, however, by weak growth in services and industry, which remained heavily constrained by weak confidence and investment.
4. Growth is expected to accelerate further through 2020 and 2021, reaching 3.6 percent, assuming a smooth political transition following the 2019 presidential elections and no major changes in the security situation. With the population growing at 2.7 percent per year, however, the projected growth path will not be strong enough to improve incomes and livelihoods for most Afghans.
5. The poverty rate in Afghanistan has increased markedly from 38 percent in 2011/12 to 55 percent in 2016/17. While detailed survey data is not available, anecdotal evidence suggests that poverty has since worsened. The drought negatively impacted the livelihoods of many of the 82 percent of the poor living in rural areas. Drought-induced displacement reached record levels of 298,582 individuals, mainly to urban areas in adjacent provinces. Poverty is expected to remain high in the medium-term, driven by weak labor demand and security-related constraints on service delivery.
6. For the longer term, growth prospects are predicated on improvements in security, steady progress with reforms, and sustained aid. Growth could also be enhanced by mobilizing investment in extractives, energy, and connectivity, building and harnessing the skills of Afghanistan's youth and women, and taking steps to realize the job creation potential of agriculture and agribusinesses.



Sectoral and Institutional Context

7. In Afghanistan, there are multitudes of complementary, competing and conflicting spaces for rule setting and conflict resolution, all with varying degrees of legitimacy and with blurred and shifting divisions between the spaces. While a plural legal system is simply a fact in many countries, some crucial pieces of legal architecture are missing in Afghanistan that would have allowed for such a system to function effectively. For instance, there is no mechanism to preclude parties from recycling disputes through different forums. This culture of protracted uncertainty around the outcome of judicial cases has led to deep mistrust in the formal justice system.
8. There is no regular physical presence of the formal justice institutions in a large number of districts in Afghanistan. In most cases the prosecutors, judges and other legal staff for these districts operate from other adjacent districts or provincial capitals. Irrespective of the limited physical presence of the formal justice institutions at the local level, community organizations are the primary sources of societal order. These organizations are powerful players in resolving the majority of disputes at the community level, especially in the rural areas that make up 70 percent of the country. It is clear that community organizations will continue to play a significant role in delivering some form of justice for many years to come, even as state institutions' presence, legitimacy, and effectiveness increase.

The National Priority Program¹ for Justice points out the lack of appropriately resourced, consistent and accessible legal services as the greatest constraint to establishing a justice system that could promote the legitimacy and stability of the state. The Government further lists the challenges in the justice sector as follows: widespread corruption, inadequate human resources including trained professional and administrative staff, lack of comprehensive training programs for both professional and administrative staff, lack of adequate financial resources, lack of functional modern systems in the justice and judicial institutions, old and dysfunctional bureaucracies, existence of parallel institutions, lack of sufficient infrastructures and physical buildings at the provincial and district levels, unwillingness of justice and judicial professionals to travel and work in less secure provinces and districts.

9. The Attorney General's Office (AGO) plays a critical role in the rule of law in Afghanistan. Its limited capacity, though, to timely prosecute all reported and registered cases contribute to the atmosphere of impunity and the perception that public attorneys are not clean, impartial, independent and committed to professional ethics. In 2016, the National Unity Government appointed a new Attorney General to lead the reforms of the AGO and revive its credibility as an independent institution. The AGO, since then, recurrently echoes the notion that fighting corruption within the AGO and wider government agencies is their highest priority. The Government has increased salaries of the prosecutors and plans to further increase their salaries, if the fiscal space allows, to counter the argument of lower salaries as a factor in the perceived corruption in the AGO.

The Organizational Structure and Functions of AGO

10. The Attorney General's Office (AGO) is an independent executive branch of the judiciary with the authority to investigate and prosecute all types of crimes. The Attorney General is appointed by the President and confirmed by the National Assembly. Prosecutors are governed by the Law on Structure and Authority of the Attorney General's Office. Under this structure, the AGO has national and sub-national units that function under the High Council of AGO. The AGO has both civilian and military wings.

¹ <http://policymof.gov.af/home/national-priority-programs/the-new-npps/>



11. At the central level, there is the Central AGO and the Supreme Court Prosecution Directorate. At the local level, there are Appellate Prosecution Directorates at the provincial level and Primary Prosecution Directorates at the district, and municipal levels. The structure includes six Departments led by the Deputy Attorneys General (DAGs) and several Directorates. Prosecutors are classified as 1) investigating prosecutors; 2) judicial prosecutors, and 3) monitoring prosecutors. The number of civilian of prosecutors, administrative staff and personnel are as follows:

Staff Location	Professional staff	Administrative staff Grades 1-6	Total	Grades 7-8	Total
Center	517	424	941	359	1300
Provinces	1535	604	2139	720	2859
Total	2052	1028	3080	1079	4159

12. Based on the detailed analysis done as part of the Human Resources Management Strategy development in 2017, which is still relevant and reconfirmed by recent observations, the AGO faces the following HR related challenges: lack of well trained and prepared prosecutors; lack of skilled administrative support; heavy workload for prosecutors; random allocation of cases - meaning some have much higher workload than others; poor case management systems; lack of financial and physical security; low remuneration of prosecutors; low participation of women, though it has been recently increased from 3% to over 17%.

13. To address these human resources related challenges, the AGO will need to align the organizational structure with the organizational strategy; forecast prosecutors’ workforce demand systematically and distribute prosecutors’ workload more evenly; reward prosecutors by increased pay to at least align the pay structure with that of the judges; provide safety and incentives for female prosecutors to work in provincial locations; strengthen provincial organizational staffing using HR transfer processes; strengthen computerization of HRD for better record keeping, communicating, reporting, data security and information analysis; manage and improve transparency and merit-based recruitment and selection; promotion and career development, and training; ensure that all processes support fair and affirmative employment of women; monitor the performance of prosecutors using fair and reasonable techniques and measurable indicators.

Relationship to CPF

14. The project is aligned with the Pillar I of the CPF “Building Strong and Accountable Institutions”. While under the current Country Partnership Framework (CPF) (2017-2020), the Bank intended to phase out its engagement in the Justice Sector, it has kept the door open for re-engagement if or when the circumstances are right because of the criticality of the sector for overall governance and the need to tackle widespread corruption and absence of rule of law as key drivers of conflict and fragility in the country.



C. Proposed Development Objective(s)

The project development objective (PDO) is to strengthen the human resources and performance management capacity of the Attorney General's Office and hence contribute to the enhancement of the prosecutorial capacity of AGO in the medium to long term.

Key Results (From PCN)

15. The following indicators will be used to measure progress towards achieving the PDO:

- i. The percentage of new recruitments in compliance with the new merit and qualifications-based recruitment procedure
- ii. The percentage of prosecutors assessed under the new performance management system
- iii. The number of backlog cases cleared according to the new clearance plan

D. Concept Description

16. This project will use an Investment Project Financing (IPF) instrument with a results-based performance orientation.

While not financing any traditional inputs, which will be taken care of under the off-budget EU Justice Support Project, this project will help improve the AGO's capacity to achieve results by incentivizing their achievement of results defined under Disbursement Linked Indicators (DLIs). The results-based financing will ensure focus on the implementation of activities that will have an impact on targeted outputs and outcomes, making the project more effective down the results chain - see tentative component DLI pricing options in Annex 1 and a preliminary list of potential DLIs in Annex 3.

17. The AGO has committed itself to a number of human resources management and organizational reforms (see Annex 3 for list of DLIs and Para 23-28 for project components) that will improve the operational and functional performance of the AGO as an institution, which in turn will help the fight against corruption and improve the application of the rule of law in general. The project will incentivize successful implementation and completion of the agreed reforms through reimbursement of agreed eligible expenditures to the Government of Afghanistan, linked to the achievement of pre-agreed results (disbursement-linked results) over the two-year project implementation period. This project responds to key interconnected and complementary areas for reform implementation which together support addressing the most pressing challenges and binding constraints within the AGO.

18. . The project's components and subcomponents and their preliminary budget breakdown are presented below as well as in the Table in Annex 1:

Component 1: Improved Workforce Management (US\$ 11 million):

This component will focus on gender-balanced, competent and professional staffing for AGO with a higher level of integrity. This will be achieved through the following sub-components:

Sub-Component 1.1: *Development of an objective and transparent recruitment and performance management*



system and professional development (US\$ 4 million): This sub-component will develop recruitment and promotion policies that will lead to the introduction and implementation of a transparent and objective merit-based recruitment system for prosecutors and administrative staff. This sub-component will also focus on putting in place a performance evaluation and management framework for the AGO based on clear, objective, and transparent criteria. This component will also support AGO to independently design and deliver lifelong professional learning programs for prosecutors including specialized training for prosecutors employed in units such as the Elimination of Violence Against Women, Anti-Corruption, Juvenile Justice, and Counter-Narcotics Units.

19. **Sub-Component 1.2: Improved staff integrity, incentive structure and secure working environment for women: (US\$ 7 million):** This sub-component will put in place a new HR policy, together with a new salary scale for prosecutors that is aligned with the salary scale for judges. The sub-component will also devise an appropriate mechanism for vetting of the staff hired for and working in AGO, as well as cover the establishment of a functional vetting system that will require regular asset declarations and vetting of all AGO employees. Under this sub-component, the AGO will also establish a functioning Gender Workplace Complaint mechanism with the responsibility of receiving, investigating, and taking action on complaints of gender-based discrimination or harassment in the workplace

Component 2: Strengthened Organizational Performance in select areas (US\$ 5.5 million):

20. This component will strengthen the AGO Capacity to handle corruption and cases of violence against women and provide better protection to victims and witnesses: The component will incentivize AGO to
- a. efficiently investigate and prosecute domestic violence cases.
 - b. effectively investigate and prosecute corruption cases, and
 - c. improve service delivery to victims of crime through better protection of victims, witnesses, informants, and whistleblowers.

Component 3: Strengthened Case Load Management (US\$ 3.5 million):

21. This component will help AGO to establish case standards based on which different types of cases will be defined and distributed among the prosecutors at different levels. This component will also incentivize AGO to come up with a plan to clear the backlog cases.
22. Sub-Component 3.1. Development of Case Standards (US\$ 1.5): This component will support the development of a system to ensure a more efficient distribution of prosecutors' workload, taking into consideration the thematic and geographical distribution of cases. Caseload standards and management plan will be developed to ensure more efficient processing of different types of cases and therefore leaving minimal backlog.
23. Sub-Component 3.2: Backlog cases² clearance plan prepared and implemented (US\$ 2): The AGO will identify and track all backlog cases, develop a multiyear plan to clear all backlog cases and monitor the implementation of the clearance plan.

² As of December 2019, there are around 8,000 cases in the backlog that need clearance.



Legal Operational Policies	Triggered?
Projects on International Waterways OP 7.50	No
Projects in Disputed Areas OP 7.60	No

Summary of Screening of Environmental and Social Risks and Impacts

Please refer to the ESRS Document.

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