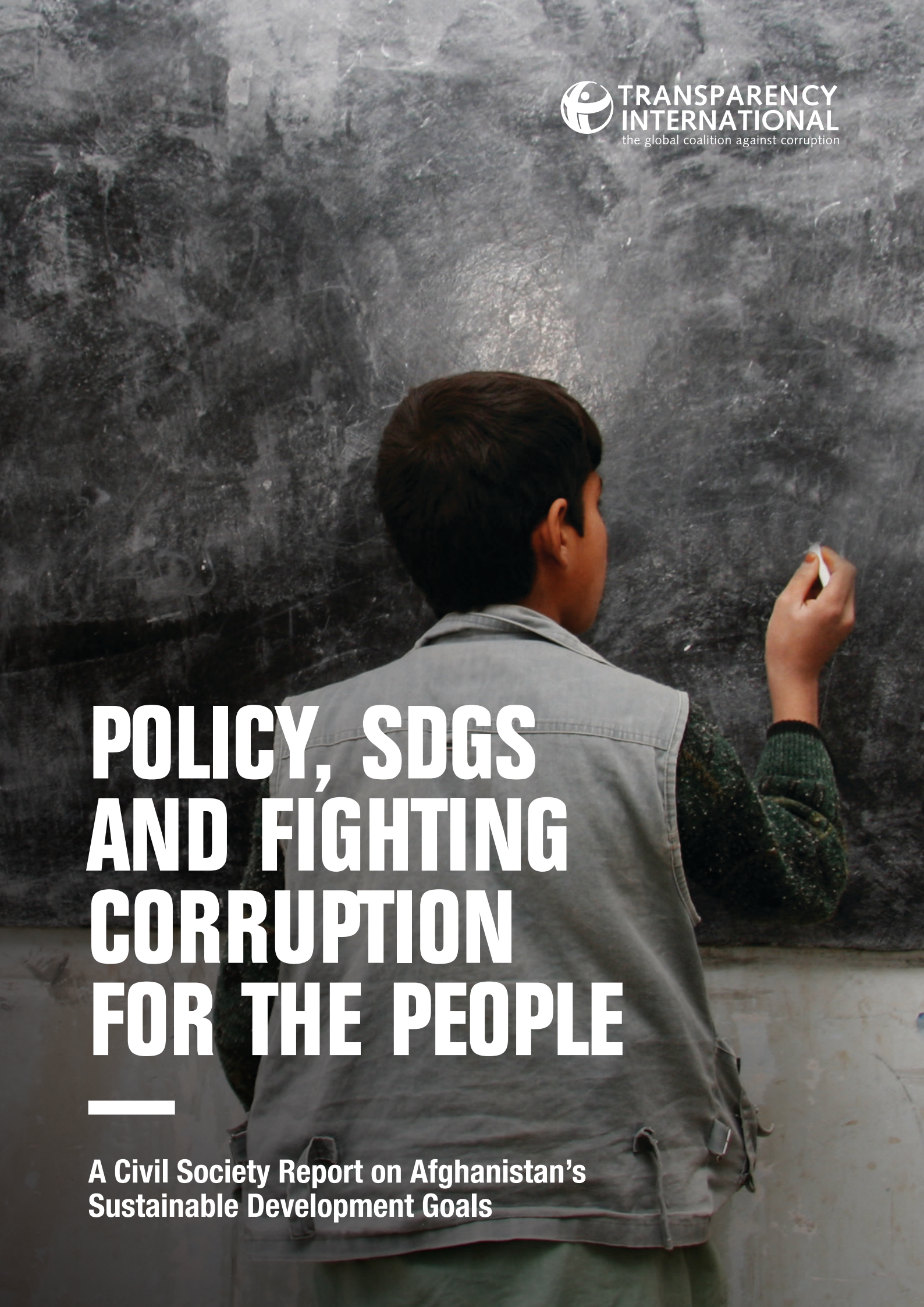




POLICY, SDGS AND FIGHTING CORRUPTION FOR THE PEOPLE

**A Civil Society Report on Afghanistan's
Sustainable Development Goals**

Transparency International is a global movement with one vision: a world in which government, business, civil society and the daily lives of people are free of corruption. With more than 100 chapters worldwide and an international secretariat in Berlin, we are leading the fight against corruption to turn this vision into reality.

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EXECUTIVE SUMMARY AND MAJOR FINDINGS

The Islamic Republic of Afghanistan's sustainable development – and ability to achieve its Sustainable Development Goal (SDG) commitments – is continually undermined by the widespread, systemic presence of corruption in the country.

Corruption deprives the poor and vulnerable of essential services and limits their access to justice. Corruption fuels insecurity and the drug trade, further limiting the National Unity Government's ability to implement many of its priority reforms, including its anti-corruption reform agenda.¹ Corruption permeates most sectors and levels of Afghan society, with Afghan citizens constantly rating corruption as one of the top problems affecting the country.² Within this context, addressing corruption as part of Afghanistan's SDG agenda (and broader reform agenda) is not just a desirable objective – it is a strategic imperative.

Led by the Ministry of Economy, the Afghan government has developed its SDG implementation plan.³ The plan will present an Afghanised version of the SDGs – including the Afghanistan Sustainable Development Goals (A-SDGs) targets and indicators – and will pave the way for national alignment of the A-SDGs with Afghanistan's national policies and budgeting processes. The alignment process was completed by December 2017, with full implementation of the A-SDGs expected to commence in 2018.

However, civil society is concerned that fighting corruption has not been given the attention it deserves in the A-SDG implementation plan. Despite numerous consultations undertaken by the government with non-government entities during the A-SDG drafting process,⁴ SDG Goal 16 (which includes corruption) has not been openly discussed in public consultation processes⁵ and it is unclear what the A-SDGs targets and indicators concerning corruption will look like.⁶ It is also unclear to what extent civil society will be involved in monitoring and reporting against the A-SDG targets and indicators.

Given that Afghanistan's sustainable development – and ability to achieve its SDG commitments – is interlinked with the country's ability to address corruption, the A-SDG implementation plan should include strong, measurable indicators to address all aspects of corruption covered in the Goal 16 targets. Additionally, all A-SDG targets should consider corruption in their design and implementation. Civil society should be included in these processes, as achievement of the A-SDGs will require the active support of both government and non-government actors.

This CSO report (shadow report)⁷ reviews progress against each SDG Goal 16 target that focuses on corruption.⁸

Key findings under SDG Target 16.4: significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organised crime

Based on the research, our key findings regarding Afghanistan's progress towards SDG Target 16.4 are as follows:

- Afghanistan has made strong progress on anti-money laundering and the proceeds of crime. At a technical level, Afghanistan has substantially implemented its Financial Action Task Force (FATF)⁹ recommendations. At a practical level, national authorities are being notified of suspicious transactions and a few cases of money laundering cases have been investigated and prosecuted.
- Despite Afghan law requiring financial institutions to collect and share information on beneficial ownership, this is not happening in practice. The Afghan government has committed to establishing a public central registry of beneficial ownership¹⁰ and a multi-agency working group has been established to implement this commitment.

Key findings under SDG Target 16.5: substantially reduce corruption and bribery in all their forms

Based on the research, our key findings regarding Afghanistan's progress towards SDG 16.5 are as follows:

- Afghanistan's Anti-Corruption Framework is not compliant with the UN Convention against Corruption. Afghanistan does not have a comprehensive anti-corruption law and the current Afghan laws criminalising corruption are not in line with the convention.
- Afghanistan relies on multiple anti-corruption agencies to carry out anti-corruption functions, however the agencies are not forming an effective, comprehensive system. In its report *Bridging the gaps: Enhancing the Effectiveness of Afghanistan's Anti-corruption Agencies* (2017), Transparency International analysed Afghanistan's current anti-corruption agency system and proposed three reform models that could lead to a more effective, independent and sustainable system in the country.¹¹
- Civil society is not meaningfully included in the development and implementation of governance and anti-corruption legislation and policies, including allocation and oversight of the national budget.
- Afghanistan law recognises whistleblowers and provides some protections, but does not have a comprehensive whistleblower protection law that is in line with international standards. Furthermore, potential whistleblowers are deterred from reporting out of fear for their personal safety.
- Transparency in public procurement and government contracting has improved in recent years, with the government publishing eight key budget documents¹² and the National Procurement Authority publishing limited information on most government procurement contracts.¹³

Key findings under SDG Target 16.10: Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements

Based on the research, our key findings regarding Afghanistan's progress towards SDG 16.10 are as follows:

- Access to information is a right that is recognised in the Constitution of Afghanistan and the Access to Information Law (ATI Law), which ensures the right of access to information for all citizens.¹⁴ However, in practice information is often accessed through personal connections rather than through applying the procedures set out in the ATI Law.

The following key recommendations under each of the SDG 16 targets assessed, namely targets 16.4 on illicit financial flows, 16.5 on bribery and corruption and 16.10 on access to information, should be prioritised:

Key recommendations under SDG Target 16.4 on illicit financial flows

To reduce illicit financial flows and strengthen the recovery and return of stolen assets the Afghan government should:

- actively investigate and prosecute cases of money laundering, drug trafficking and other forms of organised crime
- establish a public central registry of beneficial ownership, and enshrine in law the requirement for the collection, publication and timely updating of this information

Key recommendations under SDG Target 16.5 on bribery and corruption

To have a strong anti-corruption system and legislation that is able to address and reduce corruption substantially the Afghan government should:

- pass laws criminalising corruption in line with the UN Convention against Corruption
- pass a standalone whistleblower protection law that is in line with international standards
- enact a comprehensive anti-corruption law, in accordance with international best practice and Afghanistan's commitments under the UN Convention against Corruption, which, among other things, simplifies procedures for combatting corruption and sets out the powers and mandates of Afghan anti-corruption institutions on detection, investigation, corruption prevention and awareness-raising
- investigate and prosecute major cases of corruption and make the results public in order to end the culture of impunity, including corruption cases that involve high-ranking officials and that have received broad public attention¹⁵
- strengthen the asset disclosure and verification regimes
- publish the full texts of all public procurement contracts

Key recommendations under SDG Target 16.10 on access to information

To protect the right to access to information and fundamental freedoms, including of the media and judicial officials, the Afghan government should:

- require public institutions to comply with access to information requests according to the procedures and timeframes in the ATI Law
- support and protect and promote investigative journalism and ensure the security of investigative journalists and civil society activists
- ensure that the Anti-Corruption Justice Centre (ACJC) is not influenced by internal or external stakeholders, and that its work is not interfered with by such stakeholders. Staff should be fully supported to have the independence to perform their functions effectively. ACJC case selection processes should be transparent and free from external and internal interference

THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT

Spearheaded by the United Nations, the SDGs, also known as *Transforming our World: the 2030 Agenda for Sustainable Development*, are a set of 17 aspirational “global goals” and 169 targets adopted in 2015 by the 193 UN member states.

All UN member states have committed to these global goals, which are intended to steer policymaking and development funding for the next 15 years. Of particular relevance to the anti-corruption agenda is SDG 16 on sustainable governance, most notably targets 16.4 on illicit financial flows, 16.5 on bribery and corruption and 16.10 on access to information

Global targets and indicators have been set for each goal, with the expectation that they will be incorporated into national planning processes and policies. Countries are also encouraged to define national targets tailored to their specific circumstances and identify locally relevant indicators and data sources that will be used to measure progress towards achieving each of the SDG targets.

As part of its follow-up and review mechanisms, the 2030 Agenda for Sustainable Development encourages member states to conduct regular national reviews of progress made towards the achievement of these goals through an inclusive, voluntary and country-led process. In addition, each year certain state parties volunteer to report on national progress to the High-Level Political Forum. The last forum was held in July 2017 in New York. While SDG 16 was not scheduled to be reviewed in depth by the forum until 2019, integrity risks across the SDG framework make it essential to monitor national progress against corruption from the outset.

RATIONALE FOR THIS SHADOW REPORT

While governments are expected to take the lead in reviewing progress towards the SDGs, as explained below, national-level monitoring needs to go beyond the remit of governments to include civil society and other stakeholders.

This shadow report is based on data collected by Transparency International. The report has been developed in response to three key issues related to the official SDG monitoring processes: the multi-dimensional nature of SDG targets, data availability and the perceived credibility of data generated by government agencies. Collectively, these limitations provide a strong rationale for an independent appraisal of the government's anti-corruption efforts in the context of the SDGs.

Firstly, several of the targets under Goal 16 are multi-dimensional, in the sense that they measure broad concepts like "corruption", which cannot be adequately captured by a single indicator. Moreover, the indicators in the official global set do not sufficiently cover the full ambition of the targets. For instance, Target 16.5 seeks a substantial reduction in corruption and bribery "in all their forms", but the only approved global indicators measure bribery involving interactions between public officials and the public or business. There are no measures of corruption within or between governments, or other forms of non-governmental corruption. For some targets, the selected global indicators fail to capture critical aspects. For instance, Target 16.4 seeks to combat all forms of organised crime, but there is no official indicator that measures organised crime, nor an indicator related to strengthening the recovery and return of stolen assets.

This shadow report seeks to provide a more comprehensive picture of national anti-corruption progress across a range of policy areas.

Secondly, even where the official indicators are themselves capable of capturing progress towards SDG 16 targets, there is an absence of data to speak to these indicators. Many of the global SDG 16 indicators rely on data that is not regularly produced or in relation to which there is currently no established methodology or standard for data collection.

This shadow reporting exercise is partly an effort to compensate for insufficient coverage of, and data availability for, official SDG 16 indicators by presenting alternative indicators, data sources and proxies.

Finally, the official assessment of progress made towards the SDG targets will rely on data generated by government agencies. The reliability and credibility of official data may be open to question for two reasons. First, in some settings, government agencies in charge of national SDGs implementation process may simply be overwhelmed by the task of producing data for 169 targets. Second, politically sensitive targets, such as those related to corruption and governance, require that governments assess their own efficacy: illicit financial flows (16.4) may involve government officials, corruption (16.5) may involve government elites, while governments may be restricting information, or even targeting journalists, trade unionists or civil society activists (16.10).

Given the challenges described above, independent analysis is vital to complement and scrutinise official government progress reports related to SDGs 16.4, 16.5 and 16.10. This shadow report is an attempt to do just that.

The information gleaned from the shadow reporting exercise and presented in this report can be used as an input into two key processes. At the global level, this information can be used to complement Afghanistan's National Voluntary Review at the High-Level Political Forum. Nationally, this information can feed into the government's SDG review process taking place on a rolling basis, to ensure that the government's SDG reviews are comprehensive and reliable.

METHODOLOGY

The report aims to provide a broad assessment of national progress towards three SDG targets linked to anti-corruption and transparency – 16.4, 16.5 and 16.10.

A number of policy areas are covered under each of these three SDG targets to provide a rounded overview in a way that goes beyond the narrow understanding of corruption captured by the official global indicators.

Each policy area was assessed against three dimensions. First, there was a scored evaluation of the country's *de jure* legal and institutional framework. Second, relevant country data from assessments and indices produced by civil society groups and international organisations was considered. Finally, a qualitative appraisal of the country's *de facto* efforts to tackle corruption was conducted.

Three dimensions of policy area assessment:

1. Legislative and institutional framework: A number of questions pertaining to the *de jure* legal framework contain “scoring” references. Scored questions are used to assign a numerical value to the country's legal framework, based on guidance provided in the question. Each numerical value will correspond to one of the following five scores:¹⁷
 - dark green / 1
 - light green / 0.75
 - orange / 0.5
 - light red / 0.25
 - dark red / 0
 - white / not applicable or no data available
2. Implementation and compliance: Alongside the score, there are questions the answers to which involve brief narratives, which address *de facto* implementation and compliance.
3. Third-party assessment: Information and data from relevant third-party assessments are also included.

Questions marked with * are considered “optional” and are only answered if they appear relevant to the national context, and where time and resources permit.

Research for this report was conducted in May and June 2017. The Berlin-based researcher undertook desk-based research and conducted interviews (over email and phone) with individuals and representatives from the civil society, parliament, international organisation and the government.

This report has been developed within a number of limitations: data availability and the perceived credibility of the data generated by government agencies.

TRANSPARENCY INTERNATIONAL'S FINDINGS ON NATIONAL PROGRESS TOWARDS SDG 16.4, 16.5 AND 16.10

Target 16.4: By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organised crime.

Based on the research our findings for the SDG Target 16.4 regarding Afghanistan's progress towards fighting money laundering and recovery and return of stolen assets and to fight against all forms of organised crime are as follows:

- Afghanistan has made strong progress on anti-money laundering and the proceeds of crime. At a technical level, Afghanistan has substantially implemented its FATF recommendations, which resulted in Afghanistan being removed from the "Grey List" on 23 June 2017.¹⁸ At a practical level, national authorities are being notified of suspicious transactions and a few cases of money laundering have been investigated and prosecuted.
- Despite Afghan law requiring financial institutions to collect and share information on beneficial ownership, this is not happening in practice. The Afghan government has committed to establishing a public central registry of beneficial ownership¹⁹ and enshrining in law the requirement for the collection, publication and timely updating of this information. This would greatly assist in improving transparency and reducing opportunities for corruption.
- Afghanistan does not have a specific law or policy concerning the recovery of stolen assets. However, there was high-level political commitment²⁰ in 2016 on asset recovery, particularly in relation to strengthening asset recovery legislation. Priority areas include non-conviction-based confiscation powers, the introduction of unexplained wealth orders and developing internationally endorsed guidelines for the transparent and accountable management of returned stolen assets.²¹

Target 16.5: Substantially reduce corruption and bribery in all their forms

Based on the research our findings for the SDG Target 16.5 in regard to Afghanistan's progress towards substantially reducing corruption and fight against bribery and corruption acts are as follows:

- Corruption remains a serious problem in Afghanistan. Recent surveys show that almost all Afghans believe corruption is a problem in all areas of their lives, with 83.7 per cent saying corruption is a major problem and 13.1 per cent saying it is a minor problem. Concerns about corruption in daily life have grown consistently over the years. Additionally, according to the 2017 Asia Foundation Survey, Afghans report giving the largest bribes on average to the judiciary/courts (US\$347), followed by when applying for a job (US\$172), and to the provincial governor's office (US\$133).²²
- Afghanistan's Anti-Corruption Framework is not compliant with the UN Convention against Corruption. Afghanistan does not have a comprehensive anti-corruption law that *inter alia* simplifies procedures for combatting corruption and that sets out the powers and mandates of Afghan anti-corruption institutions on detection, investigation, corruption prevention and awareness-raising.²³ Additionally, the Afghan laws criminalising corruption are not in line with the convention.
- Afghanistan relies on multiple anti-corruption agencies to carry out the anti-corruption functions. However, these agencies do not form an effective, comprehensive system. Key weaknesses within the current system include duplication and overlapping functions, a lack of independence, weak legal bases, limited budgets, weak staff capacity and a lack of coordination. Additionally, no institution currently works on corruption education and awareness-raising – key anti-

corruption functions that must not be neglected.²⁴ Unless this is rectified, Afghanistan's progress in fighting corruption will not be substantial.

- The political elite are protected and the culture of impunity remains a serious problem.
- Civil society is not meaningfully included in the development and implementation of governance and anti-corruption legislation and policies.
- In practice, members of the executive move back and forth between business and government positions (a revolving door), without any legal restrictions. There are examples of officials who have started their own small or large businesses after leaving their executive jobs.
- Lobbying groups are not recognised under Afghan law and lobbying has not been recognised historically in Afghan political culture as an activity that requires regulation. As a consequence, lobbying is highly prevalent in many aspects of Afghan government and political life, and members of the National Assembly are not required to disclose their contacts with informal lobbying groups that exist in Afghanistan.²⁵
- Afghanistan's asset disclosure regime has improved in recent years, including the amendments to the law²⁶ to extend the asset registration mandate to include all "officials working in second or higher grades", including members of the Afghan Parliament, Provincial and District Councils, security, judiciary and prosecution departments. The amendment also included asset verification mechanisms and sanctions for non-compliance. However, verification of asset declarations remains weak and undermines the gains made.
- Afghanistan law recognises whistleblowers and provides some protections, but the country does not have a comprehensive whistleblower protection law that is in line with international standards. Furthermore, potential whistleblowers are deterred from reporting out of fear for their personal safety: it can be very dangerous for whistleblowers to report on wrongdoing for fear of retaliatory action. Additionally, public trust in law enforcement agencies and the judiciary is very low, which further deters whistleblowers from reporting as their complaint may not be effectively investigated and prosecuted.
- Overall, Afghanistan's political party system is very weak, with trust placed more readily in personal networks than in the political system. Most of the

political parties are formed around influential political figures, warlords, or religious leaders, rather than concrete political, social and economic programmes. Rather than aggregating collective interests, many political parties are seen instead as playing a divisive role, thanks to their legacy of "factional splits, ethnic politics and changing alliances". Political parties and candidates running for elected office are required to disclose funding sources and amounts, but not expenditure and individual donors.

- Transparency in public procurement and government contracting has improved in recent years, with the government publishing eight key budget documents²⁷ and the National Procurement Authority publishing limited information on most government procurement contracts²⁸

Target 16.10: Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements

Based on the research our findings for the SDG Target 16.10 in regard to Afghanistan's progress towards protecting the right to access to information and fundamental freedoms are as follows:

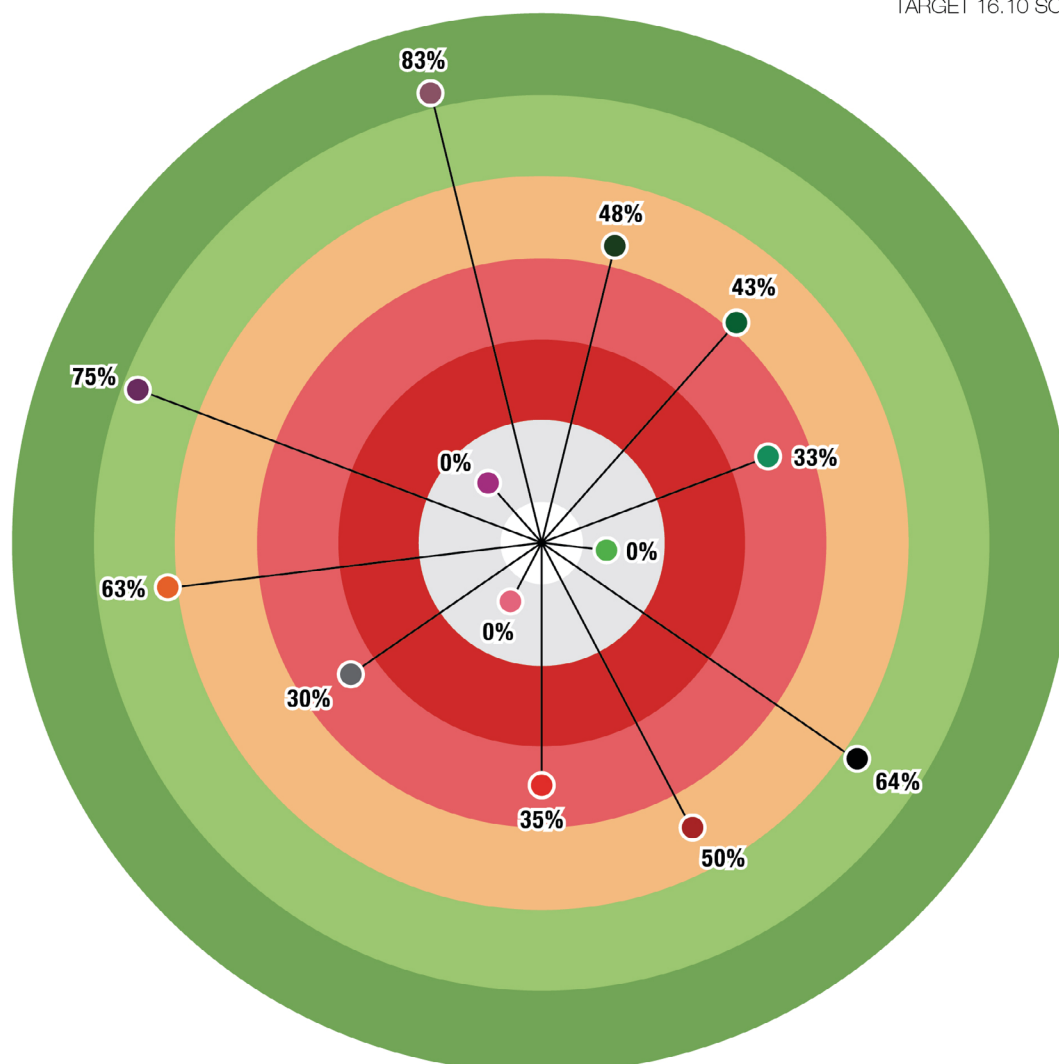
- Fundamental freedoms continue to be violated by state and non-state actors, with journalists and anti-corruption and human rights activists at particular risk of being targeted. According to two independent bodies monitoring press freedom, 2016 was considered the bloodiest year for journalists in Afghanistan.
- Access to information is a right recognised in the Constitution of Afghanistan, and the Access to Information Law (ATI Law) operationalises this right to information. However, in practice access to information is often effected through personal connections rather than through applying the procedures set out in the ATI Law. Furthermore, the ATI Law sets out a number of exceptions, such as "national security", that are often used inconsistently by government officials to restrict access to information.
- The government of Afghanistan submitted its letter of intent to join the Open Government Partnership in December 2016. During 2017, the Afghan government held its first Partnership coordination meeting and first Partnership civil society consultation workshop.

COUNTRY LEGAL SCORECARD*

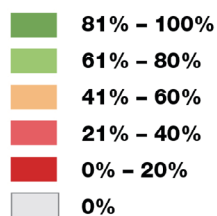
AFGHANISTAN

SDG AGGREGATE VALUE

TARGET 16.4 SCORE **40%**
 TARGET 16.5 SCORE **43%**
 TARGET 16.10 SCORE **83%**



VALUES



POLICY AREA (clockwise)

- Anti-Money Laundering
- Beneficial Ownership
- Asset Recovery
- Arms Trafficking
- Anti-Corruption Framework and Institutions
- Private Sector
- Transparency and Integrity in Public Administration
- Transparency in Lobbying
- Whistleblowing
- Transparency in Party & Election Campaign Finance
- Fiscal Transparency
- Integrity in Public Procurement
- Access to Information

KEY MESSAGES

Afghanistan's anti-corruption legal framework is not in line with international best practice and Afghanistan's commitments under the UNCAC. Moreover, Afghanistan's reliance on multiple Anti-Corruption Agencies means it does not have an effective and coherent system to fight corruption. The government should enact a comprehensive anti-corruption law to simplify procedures for combatting corruption and set out the powers and mandates of Afghan anti-corruption institutions on detection, investigation, corruption prevention and awareness raising.

* This scorecard is an appraisal of the de jure situation in a given country and does not assess compliance with the legislative framework or the effectiveness of its implementation. Please also note that, as different data is available in different countries and not all questions are applicable in each jurisdiction, country scores cannot be compared. The legal scorecard is simply intended to demonstrate areas at national level in which reform of the legislative and institutional framework is most urgently needed.

RECOMMENDATIONS

A-SDGs:

In order to have a comprehensive A-SDGs plan to address corruption effectively the Afghan government should:

- include a formal mechanism in the A-SDG Action Plan for incorporating civil society in its implementation, including civil society monitoring of progress against A-SDG targets and indicators. This should also include periodic review processes for the A-SDG Action Plan to ensure its continued relevance
- ensure the A-SDG Action Plan includes strong, measurable targets and indicators for measuring progress against each aspect of Goal 16, Targets 4, 5 and 10
- ensure all A-SDG targets and indicators consider corruption in their development and implementation

Target 16.4: By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organised crime:

To reduce illicit financial flows and strengthen the recovery and return of stolen assets regime under SDG 16 Target 16.4 the Afghan government should:

- actively investigate and prosecute cases of money laundering, drug trafficking and other forms of organised crime
- establish a public central registry of beneficial ownership,³⁴ and enshrine in law the requirement for the collection, publication and timely updating of this information
- develop a specific asset recovery policy or legislation, particularly in relation to strengthening asset recovery legislation, non-conviction-based confiscation powers, the introduction of unexplained wealth orders and developing internationally endorsed guidelines for the transparent and accountable management of returned stolen assets

Target 16.5: Substantially reduce corruption and bribery in all their forms:

To have a strong anti-corruption system and legislation that is able to address and reduce corruption substantially under SDG 16 Target 16.5 the Afghan government should:

- fulfil its commitment to pass laws criminalising corruption that are in line with the UN Convention against Corruption
- pass a standalone whistleblower protection law that is in line with international standards
- pass a law regulating lobbying of political actors, in line with international standards
- develop a specific revolving door policy or legislation to regulate such behaviour
- enact a comprehensive anti-corruption law, in accordance with international best practice and Afghanistan's commitments under the UN Convention against Corruption, which *inter alia* simplifies procedures for combatting corruption and sets out the powers and mandates of Afghan anti-corruption institutions on detection, investigation, corruption prevention and awareness raising
- investigate and prosecute major cases of corruption and make the results public to end the culture of impunity, especially concerning corruption cases that involve high-ranking officials and that have received broad public attention
- mandate that all government institutions include civil society inputs in the development of any new governance or anti-corruption legislation and policies
- strengthen the asset disclosure and verification regimes
- require political parties and candidates running for elected office to disclose annual accounts with itemised income and expenditure and individual donors
- publish the full texts of all public procurement contracts

Target 16.10: Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements:

To protect the right to access to information and fundamental freedoms, including for the media and judicial officials, under SDG target 16.10 the Afghan government should:

- support and strengthen the recently established Oversight Commission on Access to Information, including through providing an adequate budget
- put in place regulatory and practical measures to ensure best practice in archiving and record-keeping within the context of the ATI Law
- require government institutions to comply with ATI Law requests according to the procedures and timeframes in this Law
- support, protect and promote investigative journalism and ensure the security of investigative journalists and civil society activists
- take appropriate measures for the protection of judges and prosecutors, in the face of the killing of Anti-Corruption Justice Centre (ACJC) personnel
- ensure that the ACJC is not influenced by internal or external stakeholders, and that their work is not interfered with by these stakeholders. Staff should be fully supported such that they have the independence to be able to perform their functions effectively. ACJC case selection processes should be transparent and free from external and internal interference
- require the ACJC and Attorney General's Office prosecution departments to establish appropriate annual targets for the prosecution of corruption cases and publicise the number of cases received, including cases that are not pursuable
- require the Ministry of Finance and the Budget Commission of Parliament-Wolse Jirga to engage civil society organisation and media in consultation meetings in regard to the drafting process for the national budget, and oversight and budget execution at national and sub-national levels

ANNEX: QUESTIONNAIRE FOR TARGETS 16.4, 16.5 AND 16.10

The questionnaire aims to provide background information regarding Afghanistan's recent progress in fighting against corruption and to provide a broad assessment of national progress towards three SDG 16 targets linked to anti-corruption and transparency: 16.4 on illicit financial flows, 16.5 on bribery and corruption and 16.10 on access to information.

The official UN global indicators (under targets 16.4³⁵; 16.5³⁶ and 16.10³⁷) are not significant as regards curbing corruption at national level.³⁸ Thus, this shadow report covers a number of policy areas under each of these three SDG targets, to provide a rounded overview in a way that goes beyond the narrow understanding of corruption captured by the official global indicators.

Each policy area was assessed against three dimensions. First, there was a scored evaluation of the country's *de jure* legal and institutional framework. Second, relevant country data from assessments and indices produced by civil society groups and international organisations was considered. Finally, a qualitative appraisal of the country's *de facto* efforts to tackle corruption was conducted.

Three dimensions of policy area assessment:

Legislative and institutional framework: A number of questions pertaining to the *de jure* legal framework contain "scoring" references. Scored questions are used to assign a numerical value for the country's legal framework, based on guidance provided in the question. Each numerical value will correspond to one of the following five scores :

- dark green / 1
- light green / 0.75
- orange / 0.5
- light red / 0.25
- dark red / 0
- white / not applicable or no data available

2. Implementation and compliance: Alongside the score, there are questions the answers to which involve a brief narrative, which address *de facto* implementation and compliance.
3. Third-party assessment: Information and data from relevant third-party assessments are also included.

Questions marked with * are considered "optional" and are only answered if they appear relevant to the national context, and if time and resources permit.

Research for this report was conducted in May and June 2017.⁴⁰ The Berlin-based researcher undertook desk-based research and conducted interviews (by email and telephone) with individuals and representatives from civil society, parliament, international organisations and the government.

BACKGROUND

1. NATIONAL SDG IMPLEMENTATION PLAN AND MONITORING PROCESS

DIMENSION	BACKGROUND
Indicator number	1.1
Indicator question(s)	Has the government taken steps to develop an SDG action plan on how to implement the Agenda 2030 at the national level?
Response	The Afghan government has developed its SDG implementation plan. The SDG implementation plan has been developed by undertaking the following steps: • nationalisation – producing an Afghanised version of the SDGs (A-SDGs), which includes A-SDG targets and indicators.⁴¹ (March 2016 – May 2017) • alignment – alignment of the A-SDGs with Afghanistan's national policies and budgeting processes. (July – December 2017) The nationalisation process is closely coordinated with the High Council of Ministers to ensure the implementation of the A-SDGs and stronger cooperation with the private sector, civil society and community organisations. Since 2015, the Afghan government has conducted around 50 workshops, seminars⁴², symposiums and conferences with civil society organisations, private sector actors, academia, media, youth, students and women's groups⁴³ to discuss the SDGs and their implementation in Afghanistan. There are many challenges facing implementation of the SDGs in Afghanistan. These include: lack of institutional capacity, low capacity for data collection,⁴⁴ social and economic challenges, and insecurity.⁴⁵

DIMENSION	BACKGROUND
Indicator number	1.2
Indicator question(s)	Which government body or bodies are in charge of the implementation of the national SDG implementation process, and in particular concerning the implementation of SDG 16?
Response	The Afghan government has designated the Ministry of Economy as the lead line ministry and focal point for the coordination, monitoring and reporting on the A-SDGs.⁴⁶ At the Ministry of Economy, the focal point for the SDGs is the SDGs Secretariat in the Directorate of Policy and Result-Based Monitoring,⁴⁷ led by the Director General of Policy and Results-Based Monitoring, Mr Nabi Sroosh.⁴⁸ The A-SDGs national targets and indicators⁴⁹ are incorporated into the National Peace and Development Framework, including the National Priority Programmes⁵⁰ through the eight budgetary sectors of: 1) security; 2) education; 3) health; 4) governance; 5) infrastructure; 6) social protection; 7) agriculture and rural development, and 8) economy. For Goal 16, implementation of the A-SDGs has been given to the following ministries and government institutions: Ministry of Interior, Ministry of Defence, Supreme Court, Attorney General's Office and anti-corruption agencies.⁵¹ Implementation of the A-SDGs will start in 2018 and will continue to 2030.
Indicator number	1.3
Indicator question(s)	Has civil society been able to contribute to the selection of national indicators concerning SDG 16 and have there been any formal discussions about how anti-corruption targets will fit into the implementation of a national SDG plan?
Response	Several working groups, including the government, parliament, UN agencies, civil society and the private sector, have been established to support the operationalisation of the SDGs⁵² at national level (through developing the A-SDGs). Also, many national consultation forums for the coordination of the implementation of SDGS have taken place. The consultation workshops lasted for three months. Goal 16 has not been openly discussed at the events outlined above regarding development of the A-SDGs. However, Goal 16 was discussed at the National Youth Symposium on SDGs in April 2017. Additionally, the A-SDGs have drawn from some existing national policies, which also went through consultation processes involving civil society.

DIMENSION		BACKGROUND
Indicator number	1.4	
Indicator question(s)	Has the development of national SDG implementation reports relating to SDG 16 been open and inclusive? <i>Has civil society had an opportunity to provide inputs to, or review draft versions of, the official national implementation reports?</i>	
Response	Goal 16 has not been openly discussed at the events outlined above regarding development of the A-SDGs. However, Goal 16 was discussed at the National Youth Symposium on SDGs in April 2017.⁵⁷	
Indicator number	1.5	
Indicator question(s)	How do you assess the quality of the official assessment and the data provided in official implementation reports for targets 16.4, 16.5 and 16.10?	
Response	No official assessment for SDG 16 targets 16.4, 16.5 and 16.10 is available.	
Indicator number	1.6	
Indicator question(s)	Are there any salient corruption or governance issues which are omitted or not adequately addressed in the official national report?	
Response	No official assessment for SDG 16 targets 16.4, 16.5 and 16.10 is available.	

2. RECENT DEVELOPMENTS IN FIGHTING CORRUPTION

DIMENSION	LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	2.1
Indicator question(s)	Has the country adopted a national anti-corruption action plan?
Scoring	● 1: A national anti-corruption action plan has been adopted ● 0.5: There is an ongoing process to draft and adopt a national anti-corruption action plan ● 0: There is no national anti-corruption action plan and no apparent process to adopt one ○ - : Not applicable or no data available
Response	In October 2016, at the Brussels Conference on Afghanistan, the Afghan government committed to developing and adopting a comprehensive anti-corruption strategy for the whole of government. In September 2017, President Ashraf Ghani approved the “Afghanistan National Strategy for Combatting Corruption”.⁵⁸ The Strategy outlines five priority pillars, as follows: 1) Political Leadership and Empowering Reformers; 2) Ending Corruption in the Security Sector; 3) Replacing Patronage with Merit; 4) Prosecuting the Corrupt; 5) Following the Money.⁵⁹ Each pillar has actions that have to be carried out by the government between 2017 and the end of the administration in 2019/20. The development of this strategy is essential in fighting against corruption. However, this strategy does not envisage an independent and effective anti-corruption system that ensures all anti-corruption agency functions are included.⁶⁰

DIMENSION	THIRD-PARTY ASSESSMENT
Indicator number	2.2
Indicator question(s)	___ per cent of respondents state that their government performs “well” at fighting corruption in government, according to Transparency International’s ___ Global Corruption Barometer. Please provide the percentage from the most recent TI Global Corruption Barometer (http://gcb.transparency.org), and provide the year of the GCB you are quoting (if data is available for your country), otherwise please provide similar survey results from another regional or national survey, if available.
Response	31 per cent of respondents state that their government performs “well” at fighting corruption in government, according to Transparency International’s 2013 Global Corruption Barometer.⁶¹ However, more recent surveys show that almost 80 per cent of Afghan citizens say that corruption is a serious problem in their daily lives. Integrity Watch Afghanistan’s National Corruption Survey 2016 found that corruption was identified by 47 per cent of respondents as the third biggest problem facing Afghanistan, after insecurity (79 per cent) and unemployment (66 per cent), and 79 per cent of them viewed corruption as a “very serious” or “somewhat serious” problem.⁶² Additionally, corruption perception surveys undertaken by the Asia Foundation also show that the percentage of respondents who describe corruption as a major problem in their daily lives has consistently increased over the years. In 2017, almost all Afghans believe corruption is a problem in all areas of their lives, with 83.7 per cent saying corruption is a major problem and 13.1 per cent saying it is a minor problem.⁶³

DIMENSION	BACKGROUND
Indicator number	2.3
Indicator question(s)	Has your country's current political leadership made public declarations about fighting corruption in the past two years? Have there been high-level commitments by the current administration to strengthen the legal framework, policies or institutions that are relevant to preventing, detecting and prosecuting corruption?
Response	Since the National Unity Government took office in September 2014 it has made over 50 anti-corruption commitments.⁶⁴ These commitments cover multiple forms of corruption, traverse many sectors and involve numerous institutions and mechanisms. Although steps have been taken to implement many of these commitments, and some have been met, a large number are yet to be achieved.⁶⁵ At the Brussels Conference on Afghanistan in October 2016 the National Unity Government committed to the following measures, proposed for 2017–19:⁶⁶ • implement the national anti-corruption action plan and legal framework • pass laws criminalising corruption that are in line with the UN Convention against Corruption • expand public disclosure of asset declarations to cover law enforcement, customs and tax administration • expand the use of electronic payments and e-procurement to line ministries • strengthen the Supreme Audit Office • update Afghanistan's Public Expenditure and Financial Accountability (PEFA) rating, which is an internationally recognised instrument for assessing fiduciary risk
Indicator number	2.4
Indicator question(s)	Is there evidence that laws and policies are not equally applied to all officials, resulting in an increased risk of misuse of power and grand corruption?
Response	There are numerous examples of ongoing and repeated violations of laws by, and impunity for, politicians and high-level government officials, or people close to them, who have benefitted from decisions they made while holding public office.⁶⁷ Many of these cases have not been punished. A strong culture of impunity remains in most institutions and levels of government.⁶⁸ For example, in the last two years major corruption cases were identified involving a number of Ministry of Education officials from the previous administration⁶⁹ who had allegedly fabricated the attendance of 11 million school students, although only six million children were actually in school.⁷⁰ According to Integrity Watch Afghanistan, huge amounts of money could have been embezzled through ghost schools and ghost students.⁷¹ To address corruption issues in the Ministry of Education, President Ghani assigned a delegation⁷² to undertake a comprehensive investigation into the case and report the results to the President's Office.⁷³ The results of the four-month investigation were presented to the President in 2016. However, not only was no action taken against the officials found by the investigation to have been involved in this case, but the accused officials were actually protected from further action against them.⁷⁴ The investigation's results were never made public.⁷⁵ Other recent notable grand corruption cases include those involving the Ministry of Urban Development⁷⁶ and fuel contract embezzlement cases within the Ministry of Defence.⁷⁷

DIMENSION	BACKGROUND
Indicator number	2.5
Indicator question(s)	Have there been significant anti-corruption reforms or advances in the fight against corruption in the past two years?
Response	In the last two years Afghanistan's National Unity Government has taken some positive steps to address corruption. In 2016, the Government established two key anti-corruption bodies: - the High Council of Governance, Rule of Law and Anti-Corruption, which is mandated to provide political support and oversight of anti-corruption reforms - the Anti-Corruption Justice Centre (ACJC), which is mandated to fight impunity through investigating, prosecuting and adjudicating cases of grand corruption As at 8 May 2017, the ACJC had received 95 grand corruption cases, with 15 cases resulting in convictions.⁷⁸ Furthermore, the Attorney General's Office has investigated more than 900 cases of corruption in the past year, of which over 400 cases have been arbitrated in the courts.⁷⁹ Despite these achievements, Afghan civil society activists and the media have accused the Attorney General's Office and ACJC of not investigating major corruption cases and have said they have failed to probe cases of grand corruption that involve millions of dollars. They argue that the cases pursued by the ACJC are selective and do not go after big fish, who remain protected and continue to act with impunity. As at October 2016, the National Unity Government had launched the following key anti-corruption reforms:⁸⁰ - revamping public procurement, which accounts for 20% of total expenditure - establishing the High Council on Rule of Law and Anti-corruption - producing ministry-level anti-corruption action plans, beginning with Finance, Mining and Petroleum, Commerce and Industry, Communication and Technology, and Transport - providing specialised support to the ACJC to investigate and prosecute high-level corruption - introducing requirements for prosecutors and judges to pass entry and refresher exams - replacing all 34 provincial chief justices - increasing the use of electronic payments and e-procurement

DIMENSION	BACKGROUND
Indicator number	2.6
Indicator question(s)	How do you assess the space for civil society and the media to investigate and highlight corruption risks and cases, and to demand accountability from the country's political and economic elite?
Response	According to a survey conducted by NAI (an Afghan Media Watchdog), nine out of 10 journalists are "totally dissatisfied" with the process of accessing information in Afghanistan. The survey found that journalists face numerous excuses, discrimination and threats when demanding information from authorities and trying to report on corruption cases.⁸¹ Civil society finds it difficult to engage in key areas of governance reform and implementation, with no effective partnership arrangement in place on anti-corruption issues.⁸² Transparency International found that there is a lack of understanding in Afghanistan about the role civil society can play in aiding anti-corruption reform.⁸³ Additional support from the donor and international community is required to increase civil society's and investigative media's core capacity to contribute to anti-corruption efforts.

TARGET 16.4: By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organised crime

Indicator 16.4.1:	Total value of inward and outward illicit financial flows (in current United States dollars)
Indicator 16.4.2:	Proportion of seized, found or surrendered arms whose illicit origin or context has been traced or established by a competent authority in line with international instruments

3. ANTI-MONEY LAUNDERING

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	3.1	
Indicator question(s)	Has the country adopted a law to criminalise money laundering, in line with recommendation 3 of the FATF?	
Scoring	● 1: Compliant ● 0.75: Largely compliant ● 0.5: Partially compliant ● 0: Non-compliant ○ -: Not applicable or no data available	
Response	Afghanistan has made strong progress on anti-money laundering (AML) and the proceeds of crime. At a technical level, Afghanistan has substantially implemented its FATF recommendations, which resulted in Afghanistan being removed from the “Grey List” on 23 June 2017.⁸⁴ In 2015, Afghanistan amended its Anti-Money Laundering and Proceeds of Crime Law (AML-PC Law), in line with FATF recommendations. According to FATF, Afghanistan has substantially implemented its recommendations at a technical level, including by: (1) introducing mechanisms for policy and operational-level coordination on AML/CFT; (2) adequately criminalising money laundering and terrorist financing; (3) establishing adequate provisions for freezing and asset confiscation⁸⁵; (4) establishing a targeted financial sanctions framework; (5) establishing an adequate supervisory and oversight system; (6) improving the legal status and resources of the Financial Intelligence Unit; and (7) developing a cross-border currency declaration system.⁸⁶	
Indicator number	*3.2	
Indicator question(s)	* Has the government during the last three years conducted an assessment of the money laundering risks related to legal persons and arrangements, in line with Principle 2 of Transparency International’s Just for Show? report? Has the final risk assessment been published?	
Scoring	● 1: A risk assessment was carried out and is available to the public ● 0.5: A risk assessment was carried out; only an executive summary of the risk assessment has been published ● 0: No, the risk assessment has not been published or conducted ○ -: Not applicable or no data available	
Response	No risk assessment has been conducted or published to date. Based on FATF recommendation 1, the Afghan government has initiated the process of conducting a National Risk Assessment, supported by the World Bank and UN Office on Drugs and Crime. In this regard, the government agreed to conduct a stakeholder meeting in July 2017 to develop the risk assessment framework and the government will commence training for National Risk Assessment staff in July 2017, which will be led and coordinated by the Financial Transactions and Reports Analysis Centre of Afghanistan (FinTRACA).⁸⁷	

DIMENSION LEGISLATIVE AND INSTITUTIONAL FRAMEWORK	
Indicator number	3.3
Indicator question(s)	Are financial institutions (banks) prohibited by law from keeping anonymous accounts and are they required to undertake due diligence on their customers, in line with FATF recommendation 10?
Scoring	● 1: Financial institutions are prohibited by law from keeping anonymous accounts; they are also required to undertake due diligence on their customers, in line with FATF recommendation 10 ● 0.5: Only one of those provisions is in place: financial institutions are prohibited by law from keeping anonymous accounts or they are required to undertake due diligence on their customers ● 0: Financial institutions are allowed to offer anonymous accounts and they are not required to carry out due diligence on their customers ○ -: Not applicable or no data available
Response	Article 10 of AML-PC Law (2015) prohibits “reporting entities” (including financial institutions⁸⁸) from keeping anonymous accounts or similar products, and requires them to report such accounts to the authorised authority, FinTRACA.⁸⁹ This is supported by complementary legislation in the Banking Law of Afghanistan.⁹⁰ Article 12 requires due diligence measures to identify customers and beneficial owners. Article 13 lists the consequences of non-compliance. Article 16 requires reporting entities to maintain all necessary records on transactions, both domestic and international, attempted or executed for at least five years. Article 15(1) implies that “normal due diligence measures” should be followed by all reporting entities,⁹¹ without specifying what these measures should be.
Indicator number	3.4
Indicator question(s)	Are financial institutions required by law to inform relevant authorities when they suspect (or have reasonable grounds to suspect) that funds are the proceeds of criminal activity, in line with FATF recommendation 20?
Scoring	● 1: Financial institutions are required by law to inform relevant authorities when they suspect or have grounds to suspect that funds are the proceeds of criminal activity, in line with FATF recommendation 10 ● 0.5: Financial institutions are not required by law to report funds they suspect are the proceeds of criminal activity. ○ -: Not applicable or no data available
Response	Articles 17 and 18 of the AML-PC Law⁹² require all “reporting entities” (including financial institutions⁹³) to report suspicious transactions to FinTRACA.⁹⁴ The following suspicious transactions were reported to FinTRACA during 2017: 53 reported (January 2017), 31 reported (February 2017), 30 reported (March 2017), 40 reported (April 2017), 29 reported (May 2017).⁹⁵

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	3.5	
Indicator question(s)	Are designated non-financial businesses and professions (DNFBPs) – casinos, real estate agents, jewellers, lawyers, notaries, other legal professionals, accountants, and trust and company service providers – required to carry out customer due diligence, to keep records, and to report suspicious transactions to the financial intelligence unit, in line with FATF recommendations 22 and 23?	
Scoring	● 1: DNFBPs are required by law to carry out customer due diligence, to keep records and to report suspicious transactions, in line with FATF recommendations 22 and 23 ● 0.5: There are some legal obligations for DNFBPs to carry out customer due diligence, or to keep records, or to report suspicious transactions. These requirements are only partially in line with FATF recommendations 22 and 23 ● 0: There are no legal obligations for DNFBPs to carry out customer due diligence, or to keep records, or to report suspicious transactions ○ -: Not applicable or no data available	
Response	Article 5 of the AML-PC Law⁹⁶ defines “reporting entities” as DNFBPs, in addition to financial institutions. Article 12 requires due diligence measures to identify customers and beneficial owners. Article 13 lists the consequences of non-compliance. Article 16 requires reporting entities to maintain all necessary records on transactions, both domestic and international, attempted or executed for at least five years. Article 15(1) implies that “normal due diligence measures” should be followed by all reporting entities,⁹⁷ without specifying what these measures should be. Articles 17 and 18 require all “reporting entities” to report suspicious transactions to FinTRACA.⁹⁸	
Indicator number	*3.6	
Indicator question(s)	* Does the law require financial institutions to conduct enhanced due diligence in cases where the customer or the beneficial owner is a politically exposed person (PEP) or a family member or close associate of a PEP?	
Scoring	● 1: Yes, financial institutions are required to conduct enhanced due diligence in cases where their client is a foreign or a domestic PEP, or a family member or close associate of a PEP ● 0.5: Yes, but the law does not cover both foreign and domestic PEPs, and their close family and associates ● 0: No, there is no requirement for enhanced due diligence in the case of PEPs and associates ○ -: Not applicable or no data available	
Response	Article 15(1) of the AML-PC⁹⁹ requires reporting entities to undertake enhanced due diligence for “politically exposed persons (whether as customer or beneficial owner)”.¹⁰⁰ Article 15(2) defines a PEP as someone “who is or has been a person entrusted with a prominent function by international organization where a reporting entity determines that such person or business relationship is of a higher risk”. Article 9 of the AML/CFT Preventative Measures Regulation (April 2016)¹⁰¹ requires financial institutions to establish appropriate risk management systems to determine whether a customer or beneficial owner is a PEP, and, if so, to apply additional customer due diligence measures. However, despite financial institutions’ legal obligations to conduct enhanced due diligence for beneficial owners, in practice this does not happen as beneficial ownership information is often not collected or made available.	

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	3.7	
Indicator question(s)	Does the law require enhanced due diligence by DNFBPs in cases where the customer or the beneficial owner is a PEP or a family member or close associate of the PEP?	
Scoring	● 1: Yes, DNFBPs are required to conduct enhanced due diligence in cases where their client is a foreign or a domestic PEP, or a family member or close associate of a PEP ● 0.5: Yes, but the law does not cover both foreign and domestic PEPs and their close family and associates ● 0: No, there is no requirement for enhanced due diligence in the case of PEPs and their associates ○ - : Not applicable or no data available	
Response	Yes. Article 5 of the AML-PC Law (2015)¹⁰² defines “reporting entities” as including DNFBPs, in addition to financial institutions. Article 15(1) of the AML-PC (2015) requires reporting entities to undertake enhanced due diligence for “politically exposed persons (whether as customer or beneficial owner)”. Article 3 of the AML-PC Law defines the “beneficial owner” as “the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement.” However, despite DNFBPs’ legal obligations to conducted enhanced due diligence for beneficial owners, in practice this does not happen as beneficial ownership information is often not collected or made available.	

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	3.8	
Indicator question(s)	Has the country signed the multilateral competent authority agreement on the exchange of country-by-country reports on key indicators of multinational enterprise groups?	
Scoring	● 1: Yes; ● 0: No ○ -: Not applicable or no data available	
Response	Afghanistan has not become a member of the Organisation for Economic Co-operation and Development (OECD) Global Forum. However, the Afghan government has mandated FinTRACA to sign such agreements¹⁰³ and Afghanistan (through FinTRACA) has signed a number of memorandums of understanding covering this topic with 14 countries' partner institutions: • The Financial Crimes Enforcement Network (FinCEN) (USA) • Saudi Arabia Financial Intelligence Units (SAFIU) (Kingdom of Saudi Arabia) • Federal Financial Monitoring Service/Rosfinmonitoring (FFMS) (Russian Federation) • UK Financial Intelligence Unit at the National Crime Agency (UKFIU) (United Kingdom) • Sri Lanka Financial Intelligence Unit (SFIU) (Sri Lanka) • Mongolian Financial Intelligence Unit (MFIU) (Mongolia) • Financial Crimes Investigation Board (MASAK) (Republic of Turkey) • Bangladesh Financial Intelligence Unit (BFIU) (People's Republic of Bangladesh) • The State Financial Intelligence Service (SFIS) (Kyrgyzstan Republic) • Turkmenistan Financial Intelligence Unit (TFIU) (Turkmenistan) • Financial Monitoring Department (FMD) (Republic of Tajikistan) • Department of Financial Monitoring (DFM) (Republic of Belarus) • Anti-Money Laundering Division, Investigation Bureau (FIU) (Taiwan) • China Anti-Money Laundering Monitoring and Analysis Centre (CAMLMAC) (China)¹⁰⁴ Moreover, Afghanistan is member of the Egmont Group, which obliges Afghanistan to share data with other member countries. Based on this membership, FinTRACA has responded to many requests from the Egmont Group members.¹⁰⁵	
Indicator number	3.9	
Indicator question(s)	Has the country signed the competent authority multinational agreement on automatic exchange of financial account information?	
Scoring	● 1: Yes; ● 0: No ○ -: Not applicable or no data available	
Response	Afghanistan has not become a member of the OECD Global Forum. However, FinTRACA has entered into a number of similar memorandums of understanding with 14 countries (see response to 3.8 above). Moreover, Afghanistan is a member of the Egmont Group, which obliges Afghanistan to share data with other member countries. Based on this membership, FinTRACA has responded to many requests from the Egmont Group members.¹⁰⁶	

DIMENSION	LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	*3.10
Indicator question(s)	* How is the jurisdiction's performance on the exchange of information for tax purposes on request assessed by the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes?
Scoring	● 1: Compliant ● 0.75: Largely compliant ● 0.5: Partially compliant ● 0: Non-compliant, based on the OECD's assessment ○ -: Not applicable or no data available
Response	Afghanistan is not included in the OECD assessment list.

DIMENSION	THIRD-PARTY ASSESSMENT
Indicator number	3.11
Indicator question(s)	What is the country's score in the Basel Institute on Governance's Basel Anti-Money Laundering Index (- https://index.baselgovernance.org)?
Response	Afghanistan scored 8.51 in the Basel Institute on Governance's Basel Anti-Money Laundering Index in 2016. Afghanistan has the second highest risk rating out of 149 countries. ¹⁰⁷
Indicator number	3.12
Indicator question(s)	What is the country's secrecy score in the Tax Justice Network's Financial Secrecy Index (http://www.financialsecrecyindex.com)?
Response	Afghanistan is not included in the index.

DIMENSION	IMPLEMENTATION AND COMPLIANCE
Indicator number	3.14
Indicator question(s)	Is there evidence that money laundering is effectively prosecuted?
Response	Since the establishment of the ACJC on June 2016, a total of six money laundering cases have been submitted to the ACJC. Of these, the investigation and prosecution of two money laundering cases were completed and referred to the Primary Court of the ACJC for convictions. The Primary Court has delivered sentences in two money laundering cases concerning two accused individuals in a transparent manner. The trials were open to the public, and were also attended and monitored by representatives from civil society, media, national and international observers. The remaining four money laundering cases are being prosecuted and will be transferred to the Primary Court of the ACJC.¹¹⁰ In February 2017 Afghanistan's ACJC, in its first anti-money laundering case, convicted a district Police Chief for money laundering and sentenced him to three years' imprisonment.¹¹¹ However, despite these recent developments, in Afghanistan money laundering is not effectively investigated and prosecuted. The number of money laundering cases should be much higher given the large quantities of illicit financial flows and money from drug trafficking.¹¹²

DIMENSION IMPLEMENTATION AND COMPLIANCE	
Indicator number	*3.15
Indicator question(s)	* How many suspicious transactions reports did financial institutions and different types of DNFBPs file in the last two years for which data is available?
Response	FinTRACA is the leading Afghan institution mandated to receive information on suspicious financial transitions and refer cases to the Attorney General's Office and other law enforcement agencies for further investigation. FinTRACA has taken the following steps in 2016: Upon request disseminations: In 2016, based on Article 28 of the AML law, FinTRACA responded to 138 out of 145 requests from the Attorney General's Office, High Office of Oversight and Anti-corruption, Ministry of Interior, Afghanistan Revenue Department, National Directorate of Security and others.¹¹³ The cases included cases of bribery and corruption, asset registration, tax crimes, fraud, terrorism financing, drug trafficking and so on. Spontaneous disseminations: In 2016 FinTRACA analysed 36 cases including 77 STRs. As a result, it referred 26 cases to the Attorney General's Office and other law enforcement agencies.¹¹⁴ Frozen bank accounts: In 2016, a total of 42 bank accounts were frozen, containing Afghan Afghani 25 million and US\$240,000.¹¹⁵ Since 27 February 2016, FinTRACA has revoked 133 licences of money service providers.¹¹⁶
Indicator number	3.16
Indicator question(s)	Have there been any noteworthy changes or developments in the past two years that indicate an improvement or deterioration in the framework or practice in regard to preventing and fighting money laundering?
Response	In 2015, Afghanistan amended its Anti-Money Laundering and Proceeds of Crime Law (AML-PC Law), in line with FATF recommendations. According to FATF, Afghanistan has substantially implemented its recommendations at a technical level, including by: (1) introducing mechanisms for policy and operational level coordination on AML/CFT; (2) adequately criminalising money laundering and terrorist financing; (3) establishing adequate provisions for freezing and asset confiscation¹¹⁷; (4) establishing a targeted financial sanctions framework; (5) establishing an adequate supervisory and oversight system; (6) improving the legal status and resources of the Financial Intelligence Unit; (7) and developing a cross-border currency declaration system.¹¹⁸ Afghanistan's "strategic deficiencies" in the AML/CFT regime are scheduled to receive an on-site visit before June 2017, possibly leading thereafter to a delisting.¹¹⁹ In 2016, FinTRACA developed a <i>Standard Operating Procedures, Suspicious Transactions Reporting Guideline</i>, adopting FATF's Special Recommendation Three (STR III)¹²⁰. Additionally, FinTRACA facilitated the amendment of the Cash Control Regulation and completed cash control operations in all international airports of Afghanistan. Furthermore, as noted above in 3.15, a number of suspicious transactions have been reported to FinTRACA.¹²¹ The Afghanistan National Strategy for Combatting Corruption (October 2017) mandates the government institutions to expand the use of anti-money laundering instruments to detect, trace, and confiscate proceeds of corruption. which include: 1) Da Afghanistan Bank (DAB) is to provide guidance to financial institutions on identifying people with suspect sources of wealth and improving risk management; 2) DAB is to ensure effective implementation of anti-money laundering through targeted supervision; and 3) FinTRACA is to treat corruption as a priority in its operational and strategic analyses.¹²²

4. BENEFICIAL OWNERSHIP TRANSPARENCY

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	4.1	
Indicator question(s)	To what extent does the law in your country clearly define beneficial ownership?	
Scoring	● 1: A beneficial owner is defined as a natural person who directly or indirectly exercises ultimate control over a legal entity or arrangement, and the definition of ownership covers control through other means, in addition to legal ownership ● 0.5: A beneficial owner is defined as a natural person [who owns a certain percentage of shares], but there is no mention of whether control is exercised directly or indirectly, or if control is limited to a percentage of share ownership ● 0: There is no definition of beneficial ownership, or the control element is not included ○ - : Not applicable or no data available	
Response	Article 3(f) of the AMP-PC Law (2015) defines “beneficial owner” as “the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement.”¹²³ There is no specific law focused on beneficial ownership; however, the Afghan government intends to develop one. In this regard, it has established a Beneficial Ownership Afghan Stakeholders working group. The working group was formed in February 2017 by the representatives of some governments institutions and civil society representatives.¹²⁴ It has met three times, most recently on 29 May 2017, where it discussed and finalised the <i>Draft Plan on Beneficial Ownership Regulation</i>, which will be presented to the High Economic Council.¹²⁵	
Indicator number	4.2	
Indicator question(s)	Does the law require that financial institutions have procedures for identifying the beneficial owner(s) when establishing a business relationship with a client?	
Scoring	● 1: Yes, financial institutions are always required to identify the beneficial owners of their clients when establishing a business relationship ● 0.5: Financial institutions are required to identify the beneficial owners only in cases considered as high-risk, or the requirement does not cover the identification of the beneficial owners of both natural and legal customers ● 0: No, there is no requirement to identify the beneficial owners ○ - : Not applicable or no data available	
Response	Article 12 of the AMP-PC Law (2015) requires due diligence measures to identify customers and beneficial owners. Article 13 lists the consequences of non-compliance. Article 16 requires reporting entities to maintain all necessary records on transactions, both domestic and international, attempted or executed for at least five years. Article 15(1) implies that “normal due diligence measures” should be followed by all reporting entities,¹²⁶ without specifying what these measures should be. Articles 17 and 18 require all “reporting entities” to report suspicious transactions to FinTRACA.¹²⁷	

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	4.3	
Indicator question(s)	Does the law specify which competent authorities (for example, financial intelligence unit, tax authorities, public prosecutors, anti-corruption agencies, etc.) have access to beneficial ownership information?	
Scoring	● 1: Yes, the law specifies that all law enforcement bodies, tax agencies, and the financial intelligence unit should have access to beneficial ownership information ● 0.75: Yes, a decree or another authoritative standard or policy specifies that all law enforcement bodies, tax agencies, and the financial intelligence unit should have access to beneficial ownership information ● 0.5: Only some competent authorities are explicitly mentioned in the law, decree or policy ● 0: The law or relevant decrees or policies do not specify which authorities should have access to beneficial ownership information ○ - : Not applicable or no data available	
Response	Article 16 of the AML-PC Law requires reporting entities to ensure that their records and underlying information (including beneficial ownership information) are readily available to FinTRACA and other competent authorities, and that they are sufficient to enable reconstruction of transactions.¹²⁸ Subsection 16(3) notes that identification data and transaction records should be available to “domestic officials who are legally authorized”. Additionally, the work of the Beneficial Ownership Afghan Stakeholders working group will likely include access to beneficial ownership information.	
Indicator number	*4.4	
Indicator question(s)	* Which information sources are competent authorities allowed to access for beneficial ownership information?	
Scoring	● 1: Information is available through a central beneficial ownership registry/company registry 2: information is available through decentralised beneficial ownership registries/ company registries ● 0.5: Authorities have access to information maintained by legal entities / or information recorded by tax agencies/ or information obtained by financial institutions and DNFBPs ● 0: Information on beneficial ownership is not available ○ - : Not applicable or no data available	
Response	Article 16 of the AML-PC Law¹²⁹ requires reporting entities to maintain records of the following information, which should be readily available to FinTRACA and other competent authorities: 1) all necessary records on transactions, both domestic and international, attempted or executed for at least five years following the attempt or execution of the transaction 2) records on the identification and verification data obtained through the customer due diligence measures, account files and business correspondence as required by Chapter II of AMIL-PC Law for at least five years or longer if required in specific cases by the competent authority after the business relationship has ended or the occasional transaction has been carried out. The identification data and transaction records should be available to domestic officials who are legally authorised 3) additional information requested by a supervisory authority. However, despite these authorities having a legal mandate to access such information, in practice their access is restricted as beneficial ownership information is often not collected by financial entities and other institutions subject to the AML-PC Law.	

DIMENSION	IMPLEMENTATION AND COMPLIANCE
Indicator number	4.5
Indicator question(s)	Which public authority supervises/holds the company registry?
Response	All corporations, partnerships, limited liability companies and sole proprietorships engaged in commercial activity are required to register with the Afghanistan Central Business Registry (ACBR) within the Ministry of Commerce. The ACBR facilitates the registration process, including providing assistance on completing the application form, paying fees, publishing key business information in the Official Gazette and reporting specification of businesses to the Revenue Department of the Ministry of Finance. ¹³⁰

DIMENSION	LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	4.6
Indicator question(s)	What information on beneficial ownership is recorded in the company registry?
Scoring	● 1: All relevant information is recorded: name of the beneficial owner(s), identification or tax number, personal or business address, nationality, country of residence and description of how control is exercised ● 0.75: Information is partially recorded ● 0.5: Only the name of the beneficial owner is recorded ● 0: No information is recorded ○ -: Not applicable or no data available
Response	There is no public register of company beneficial ownership information. ACBR does not collect information on beneficial owners in a systematic and adequate manner for including in the company register.¹³¹ However, on May 2016 President Ghani committed to establishing a public central register of company beneficial ownership information¹³² and the Beneficial Ownership Afghan Stakeholders working group is an early step in this process. The Afghanistan National Strategy for Combatting Corruption (October 2017) mandates the Ministry of Mines to establish a public register of beneficial ownership by June 2018.¹³³
Indicator number	4.7

Indicator question(s)	What information on beneficial ownership is made available to the public?
Scoring	● 1: All relevant information is published online: name of the beneficial owner(s), identification or tax number, personal or business address, nationality, country of residence and description of how control is exercised ● 0.75: Information is partially published online, but some data is omitted (e.g. tax number); sufficient information is accessible to identify the beneficial owner ● 0.5: Only the name of the beneficial owner is published, or information is only made available on paper/physically ● 0.25: Only the name of the direct owner (who may not be beneficial owners) is accessible ● 0: No information is published, or accessible information is insufficient to identify direct or beneficial owners ○ -: Not applicable or no data available
Response	See response to 4.7

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	*4.8	
Indicator question(s)	* Does the law require legal entities to update information on beneficial ownership, shareholders, and directors provided in the company registry?	
Scoring	● 1: Yes, legal entities are required by law to update information on beneficial ownership or information relevant to identifying the beneficial owner (directors/shareholders) immediately or within 24 hours after the change ● 0.75: Yes, legal entities are required to update the information on beneficial ownership or directors/shareholders within 30 days after the change ● 0.5: Yes, legal entities are required to update the information on the beneficial owner or directors/shareholders on an annual basis ● 0.25: Yes, but the law does not specify a specific timeframe ● 0: No, the law does not require legal entities to update the information on control and ownership ○ - : Not applicable or no data available	
Response	There is no law as such. As noted above, beneficial ownership is not included in the ACBR company register.	
Indicator number	*4.9	
Indicator question(s)	* Is there a registry which collects information on trusts?	
Scoring	● 1: Yes, information on trusts, including beneficiaries/beneficial owners, is maintained in a registry and accessible to the public ● 0.5: Yes, there is a registry of trusts, but information made available to the public is not sufficient to identify the beneficiaries/beneficial owners ● 0: No, there is no registry in which all trusts are listed ○ - : Not applicable or no data available	
DIMENSION		THIRD-PARTY ASSESSMENT
Indicator number	*4.10	
Indicator question(s)	* What is the country's score in the Open Company Data Index produced by Open Corporates (http://registries.opencorporates.com)?	
Response	Afghanistan's score is ¹³⁴ : 0/100	

DIMENSION IMPLEMENTATION AND COMPLIANCE	
Indicator number	4.11
Indicator question(s)	How great is the level of transparency of the company registry in practice?
Response	The ACBR company register is accessible to search and verify online the companies through registration number, reference number, TIN or licence number and business name. However, a company cannot be searched by the name of the director or shareholders.¹³⁵ As noted above, beneficial ownership is not included in this register. It is free of charge to search the ACBR company register for the ownership information of a company. The accounts and filings of companies are not accessible to the public through the ACBR company register. It is mandatory for every company to register with the ACBR company register in order to operate in Afghanistan.
Indicator number	4.12
Indicator question(s)	Have there been any developments in the past two years that indicate an improvement or deterioration of the transparency of corporations and other legal entities?
Response	There have been a number of improvements in the past two years. The ACBR website is regularly updated and there is more data available than previously. Moreover, the National Procurement Authority has blacklisted a total of 107 companies in regard to accessing government procurement contracts, out which 107 are national and three are international (one Spanish, two Turkish) for providing fake documents.¹³⁶ On May 2016, President Ghani committed to establishing a public central register of company beneficial ownership information¹³⁷ and the Beneficial Ownership Afghan Stakeholders working group is an early step in this process.

5. RECOVERY OF STOLEN ASSETS

DIMENSION	LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	5.1
Indicator question(s)	Does the country have a specific asset recovery policy?
Scoring	● 1: A comprehensive asset recovery policy is in place ● 0.5: The country has adopted an asset recovery policy, but it fails to address some important aspects ● 0: No asset recovery policy has been adopted ○ - : Not applicable or no data available
Response	As at June 2017, Afghanistan does not have a specific asset recovery policy or legislation, although there are related provisions in the Afghanistan Penal Code and AML-PC Law.¹³⁸ (The AML-PC Law authorises the proceeds of crimes to be identified, frozen, seized, and confiscated.) There was high-level political commitment in the London Summit on Afghanistan (2016) on asset recovery, particularly in relation to strengthening asset recovery legislation. Priority areas identified at the London Summit included non-conviction-based confiscation powers, the introduction of unexplained wealth orders¹³⁹ and developing internationally endorsed guidelines for the transparent and accountable management of returned stolen assets.¹⁴⁰ To operationalise this commitment a working group has been established in 2017¹⁴¹, the members of which include the Attorney General's Office, FinTRACA and customs offices (tax offices will be included in the future). The working group has met three times as at June 2017. The working group will work towards development of an asset recovery policy and the establishment an Office of Asset Recovery in Afghanistan.¹⁴² In the Afghanistan National Strategy for Combatting Corruption (October 2017) the government commits to advancing discussions and agreements on cross-border crime and recovery of stolen assets by June 2018.¹⁴³ Additionally, the strategy mandates the Ministry of Justice to revise civil and criminal codes to seize illegally obtained assets by December 2017.

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	5.2	
Indicator question(s)	Has the country established a wide range of asset recovery mechanisms, including a) measures that allow for the seizure and confiscation of proceeds from money laundering without requiring a criminal conviction (non-conviction based confiscation); b) a policy that requires an offender to demonstrate that the assets were acquired lawfully; and c) the recognition/enforceability of foreign non-conviction-based confiscation/forfeiture orders?	
Scoring	● 1: The country has adopted measures that allow for non-conviction-based confiscation and/or measures that shift the burden of proof that assets were acquired legally on the offender, as well as a mechanism that allows for the recognition and enforcement of foreign non-conviction based confiscation orders ● 0.5: The country has adopted two of the above mechanisms ● 0.25: One of the above mechanisms has been adopted ● 0: None of the approaches has been adopted ○ - : Not applicable or no data available	
Response	There was high-level political commitment in the London Summit on Afghanistan (2016) to strengthening asset recovery legislation, including through non-conviction-based confiscation powers and the introduction of unexplained wealth orders.¹⁴⁴ However, no action has been taken as at June 2017 to fulfil these commitments. Based on Article 56 of the AML-PC Law the Afghan government can enter a mutual legal assistance treaty with foreign countries. (In practice, this is carried out by the Ministry of Foreign Affairs.) Mutual legal assistance may include: (Paragraph 2) i) confiscation of proceeds of crime and other funds or property, including confiscation based on non-conviction based confiscations; j) executing freezing, seizing and other provisional measures k) Executive investigative measures, including special investigative techniques, undercover operations, controlled deliveries. There is no available data on how many treaties the Afghan government has signed.	
Indicator number	5.3	
Indicator question(s)	Has the country created a specialised asset recovery team or unit?	
Scoring	● 1: There is a team, unit or agency that specialises in asset recovery and the legal framework provides sufficient political independence and resources to carry out its responsibilities ● 0.5: There is a team, unit or agency that specialises in asset recovery and the legal framework provides either sufficient political independence or sufficient resources to carry out its responsibilities ● 0.25: There is a team, unit or agency that specialises in asset recovery but the legal framework fails to provide sufficient political independence and resources for this body ● 0: There is no specialised team or agency tasked with asset recovery ○ - : Not applicable or no data available	
Response	See response 5.1	

DIMENSION IMPLEMENTATION AND COMPLIANCE	
Indicator number	5.4
Indicator question(s)	Is there evidence of a strong political commitment to promoting asset recovery?
Response	There was high-level political commitment at the London Summit on Afghanistan (2016) on asset recovery: - to strengthening asset recovery legislation, including through non-conviction-based confiscation powers and the introduction of unexplained wealth orders¹⁴⁵ - to developing internationally endorsed guidelines for the transparent and accountable management of returned stolen assets¹⁴⁶ To operationalise this commitment a working group has been established in 2017¹⁴⁷, the members of which include the Attorney General's Office, FinTRACA and customs offices (tax offices will be included in the future). The working group has met three times as of June 2017. The working group will work towards the development of an asset recovery policy and the establishment of an Office of Asset Recovery in Afghanistan.¹⁴⁸ A dedicated office of asset recovery within the Attorney General's Office consisting of staff from the different institutions involved in recovery efforts is one proposal under discussion. This office would focus on efforts to locate and seize stolen assets in corruption and other cases, such as illegal trafficking cases.¹⁴⁹ In the Afghanistan National Strategy for Combatting Corruption (October 2017) the government commits to advancing discussions and agreements on cross-border crime and recovery of stolen assets by June 2018.¹⁵⁰ Additionally, the strategy mandates the Ministry of Justice to revise civil and criminal codes to seize illegally obtained assets by December 2017.
Indicator number	5.5
Indicator question(s)	Does the country actively participate in international cooperation networks focusing on asset recovery?
Response	Based on Article 56 of the AML-PC Law the Afghan government can enter into a mutual legal assistance treaty with foreign countries. (In practice, this is carried out by the Ministry of Foreign Affairs). Mutual legal assistance may include: (Paragraph 2) i) confiscation of proceeds of crime and other funds or property, including confiscation based on non-conviction based confiscations; j) executing freezing, seizing and other provisional measures k) Executive investigative measures, including special investigative techniques, undercover operations, controlled deliveries. There is no available data on how many treaties the Afghan government has signed.
Indicator number	*5.6
Indicator question(s)	* Is there public evidence of any asset recovery cases involving your country in the past two years?
Response	There have been a limited number of asset recovery cases in the past two years, most notably the Kabul Bank case.¹⁵¹ Also, over the past year there have been a few cases confiscations of assets of cases which have resulted in convictions by the ACJC.¹⁵²

6. FIGHT AGAINST ORGANISED CRIME

DIMENSION	THIRD-PARTY ASSESSMENT
Indicator number	*6.1
Indicator question(s)	* Is there evidence of strong public trust in the integrity of the police?
Response	According to Transparency International's Global Corruption Barometer in 2013, 33 per cent of respondents in Afghanistan felt that the police were corrupt/extremely corrupt in Afghanistan.¹⁵³ There are extremely high levels of corruption within the Ministry of Interior and Ministry of Defence.¹⁵⁴ This problem is also acknowledged by Afghan government leadership: on 8 May 2017, at the third Annual European Union Anti-Corruption Conference in Afghanistan, President Ghani stated that the Ministry of Interior is the heart of corruption in the security sector and stressed the government's focus on addressing corruption in the Ministry of Interior this year.¹⁵⁵

DIMENSION	IMPLEMENTATION AND COMPLIANCE
Indicator number	*6.2
Indicator question(s)	*Is there evidence, for example through media investigations or prosecution reports, of a penetration of organised crime into the police, the prosecution, or the judiciary? If no, is there evidence that the government is alert and prepared for this risk?
Indicator number	*6.3
Indicator question(s)	* Is there evidence of effective policing against organised crime by (specialised) law enforcement units? Do these bodies have sufficient independence, resources, capacity and adequate integrity mechanisms to be effective?
Response	The Major Crimes Task Force has the mandate to fight against organised crime in Afghanistan, including the detection of cases of grand corruption. The Task Force lacks staff and professional training for its staff to carry out its mandate effectively.¹⁵⁶ In late 2016, President Ghani committed to increasing the number of staff in the Major Crimes Task Force unit to 300 staff.¹⁵⁷ The Major Crimes Task Force's lack of independence, authority and skills to successfully detect cases of corruption has been acknowledged by the Afghanistan National Strategy for Combatting Corruption.¹⁵⁸

7. ARMS TRAFFICKING (OPTIONAL)

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	7.1	
Indicator question(s)	* Has the country ratified the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organised Crime?	
Scoring	● 1: The Protocol has been ratified (or accepted) ● 0: The Protocol has not been ratified ○ - : Not applicable or no data available	
Indicator number	7.2	
Indicator question(s)	* Has the country signed and ratified the Arms Trade Treaty?	
Scoring	● 1. The Treaty has been ratified ● 0.5. The Treaty has been signed but not ratified ● 0. The Treaty has not been signed or ratified ○ - : Not applicable or no data available	
Response	Afghanistan has voted for the adoption of the Arms Trade Treaty but it has not signed it yet.¹⁶¹ Afghanistan has signed up to a number of international protocols related to arms control, including the Ottawa Convention on Land Mines, Geneva Declaration on Armed Violence and Development, as well as the Chemical Weapons Ban Treaty.¹⁶²	
DIMENSION		IMPLEMENTATION AND COMPLIANCE
Indicator number	*7.3	
Indicator question(s)	* Does the government have a well-scrutinised process for arms export decisions that aligns with international protocols, particularly the Arms Trade Treaty?	
Response	Afghanistan exports very few arms and there does not appear to be any mechanism for parliamentary scrutiny of arms exports. However, there are reports of an illicit arms trade between the police forces and insurgency groups.¹⁶³ Afghanistan's Governmental Defence Index ranking in Band E places it in one of the highest risk categories for corruption in the defence and security sector. The highest risk area is Finance, which fell in Band F (critical risk of corruption). Ineffective audit and prosecutorial authorities, a lack of civilian oversight over the defence and security sectors, and a challenging environment for civil society enable organised crime and the abuse of power by military and security personnel. At the same time, the current government has significantly stepped up oversight over procurement contracts and the development of anti-corruption training for select personnel.¹⁶⁴	

DIMENSION IMPLEMENTATION AND COMPLIANCE	
Indicator number	*7.4
Indicator question(s)	* Are there independent, well-resourced and effective institutions within the defence and security apparatus tasked with building integrity and countering corruption?
Response	There are several institutions tasked with building integrity and countering corruption specifically within or focused on the Ministry of Defence and the military: some are Afghan-run bodies, others are international bodies. A lack of publicly available evidence surrounding the activities of these bodies suggests that current effectiveness is limited. It is also remains unclear how these bodies' respective mandates relate to one another and how they coordinate, if at all.¹⁶⁵ The government response to this assessment indicates that there are bodies within the Ministry of Defence tasked with countering corruption (Chief Legal, Ministry of Defence Legal, General Staff Inspector General (GSIG), and Ministry of Defence Inspector General Departments) and that these bodies have undertaken relevant activities.¹⁶⁶ The Supreme Audit Office examines and reviews the performance and expenditures of all entities that receive funds from public sources, including the Ministry of Defence and Ministry of Interior.¹⁶⁷
Indicator number	*7.5
Indicator question(s)	* How effective are controls over the disposal of assets? Is information on these disposals and the proceeds of their sale transparent?

Target 16.5: Substantially reduce corruption and bribery in all their forms

Indicator 16.5.1:	Proportion of persons who had at least one contact with a public official and who paid a bribe to a public official, or were asked for a bribe by those public officials, during the previous 12 months
Indicator 16.5.2:	Proportion of businesses that had at least one contact with a public official and that paid a bribe to a public official, or were asked for a bribe by those public officials, during the previous 12 months

8. EXPERIENCE AND PERCEPTIONS OF CORRUPTION

DIMENSION		THIRD-PARTY ASSESSMENT
Indicator number	8.1	
Indicator question(s)	___ per cent of respondents state that they or a member of their household made an unofficial payment or gift when coming into contact with public services over the past 12 months, according to Transparency International's Global Corruption Barometer (or similar national surveys).	
Response	65 per cent of respondents state that they or a member of their household made an unofficial payment or gift when coming into contact with public services over the past 12 months, according to Transparency International's 2013 Global Corruption Barometer. ¹⁶⁸	
Indicator number	8.3	
Indicator question(s)	___ per cent of respondents state that their government performs "badly" at fighting corruption in government, according to Transparency International's ___ Global Corruption Barometer.	
Response	31 per cent of respondents state that their government performs "badly" at fighting corruption in government, according to Transparency International's 2013 Global Corruption Barometer. ¹⁷⁰	
DIMENSION		IMPLEMENTATION AND COMPLIANCE
Indicator number	8.5	
Indicator question(s)	Has corruption experienced by people increased or decreased in recent years?	
Response	In 2016, Afghanistan scored 4 points higher on Transparency International's Corruption Perceptions Index 2016 than the previous year, moving from the 166th rank (third from the bottom) to 169th (eight from the bottom). The Asia Foundation has found that corruption perceptions have not changed significantly over recent years. In 2017, almost all Afghans believe corruption is a problem in all areas of their lives, with 83.7 per cent saying corruption is a major problem and 13.1 per cent saying it is a minor problem.¹⁷¹ Concerns about corruption in daily life have grown consistently over the years.¹⁷²	

9. ANTI-CORRUPTION FRAMEWORK AND INSTITUTIONS

DIMENSION	LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	9.1
Indicator question(s)	Are the following offences clearly defined and banned by criminal law?
Scoring	a. Active bribery of domestic public officials, in line with Art. 15(a) of the UN Convention against Corruption ● 1: The offence is clearly defined and banned ● 0.5: The offence is banned, but there are shortcomings in its definition¹⁷³ ● 0: The offence is not adequately defined or not banned ○ - : Not applicable or no data available b. Passive bribery of domestic public officials, in line with Art. 15(b) of the UN Convention against Corruption ● 1: The offence is clearly defined and banned ● 0.5: The offence is banned, but there are shortcomings in its definition¹⁷⁴ ● 0: The offence is not adequately defined or not banned ○ - : Not applicable or no data available c. Embezzlement, misappropriation or other diversion of property by a public official, in line with Art. 17 of the UN Convention against Corruption ● 1: The offence is clearly defined and banned ● 0.5: The offence is banned, but there are shortcomings in its definition¹⁵⁵ ● 0: The offence is not adequately defined or not banned ○ - : Not applicable or no data available d. Trading in influence, in line with Art. 18 of the UN Convention against Corruption ● 1: The offence is clearly defined and banned ● 0.5: The offence is banned, but there are shortcomings in its definition¹⁵⁶ ● 0: The offence is not adequately defined or not banned ○ - : Not applicable or no data available e. Abuse of functions, in line with Art. 19 of the UN Convention against Corruption ● 1: The offence is clearly defined and banned¹⁷⁷ ● 0.5: The offence is banned, but there are shortcomings in its definition ● 0: The offence is not adequately defined or not banned ○ - : Not applicable or no data available f. Illicit Enrichment, in line with Art. 20 of the UN Convention against Corruption ● 1: The offence is clearly defined and banned ● 0.5: The offence is banned, but there are shortcomings in its definition¹⁷⁸ ● 0: The offence is not adequately defined or not banned ○ - : Not applicable or no data available g. Bribery in the private sector, in line with Art. 21 of the UN Convention against Corruption ● 1: The offence is clearly defined and banned¹⁷⁹ ● 0.5: The offence is banned, but there are shortcomings in its definition ● 0: The offence is not adequately defined or not banned ○ - : Not applicable or no data available

DIMENSION	LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Scoring	h. Embezzlement of property in the private sector, in line with Art. 22 of the UN Convention against Corruption ● 1: The offence is clearly defined and banned ● 0.5: The offence is banned, but there are shortcomings in its definition¹⁸⁰ ● 0: The offence is not adequately defined or not banned ○ - : Not applicable or no data available i. Laundering the proceeds of crime, in line with Art. 23 of the UN Convention against Corruption ● 1: The offence is clearly defined and banned¹⁸¹ ● 0.5: The offence is banned, but there are shortcomings in its definition ● 0: The offence is not adequately defined or not banned ○ - : Not applicable or no data available j. Concealment, in line with Art. 24 of the UN Convention against Corruption ● 1: The offence is clearly defined and banned ● 0.5: The offence is banned, but there are shortcomings in its definition¹⁸² ● 0: The offence is not adequately defined or not banned ○ - : Not applicable or no data available k. Obstruction of justice, in line with Art. 25 of the UN Convention against Corruption ● 1: The offence is clearly defined and banned ● 0.5: The offence is banned, but there are shortcomings in its definition¹⁸³ ● 0: The offence is not adequately defined or not banned ○ - : Not applicable or no data available

DIMENSION	IMPLEMENTATION AND COMPLIANCE
Indicator number	9.2
Indicator question(s)	* Please provide case statistics for each of those offences, including, if available, the number of trials in each of the past two years (ongoing and finalised), the number of convictions, the number of settlements, the number of acquittals and the number of cases currently pending.

DIMENSION	IMPLEMENTATION AND COMPLIANCE
Indicator number	9.3
Indicator question(s)	* Anti-corruption agency <i>You may find relevant information to answer the following questions in an NIS assessment conducted by your chapter (https://www.transparency.org/whatwedo/nis). Alternative sources are provided in the guidance at the end of this section.</i> • To what extent is there formal operational independence of the anti-corruption agency, and what evidence is there that, in practice, it can perform its work without external interference? • To what extent does it have adequate resources and capacity to achieve its goals in practice? • To what extent are there mechanisms in place to ensure the integrity of the anti-corruption agency, and to what extent is its integrity ensured in practice? • To what extent does the anti-corruption agency engage in preventive, educational and investigation activities on corruption and alleged corruption cases?
Response	Afghanistan relies on multiple institutions to carry out the anti-corruption functions. However, its multiple anti-corruption agencies do not form an effective, comprehensive anti-corruption agency system. Key weaknesses within the current system include duplication and overlapping functions, a lack of independence, a weak legal basis, limited budgets, weak staff capacity and a lack of coordination. Additionally, no institution currently works on corruption education and awareness-raising, key anti-corruption functions that must not be neglected.¹⁸⁴ In its report <i>Bridging the gaps: Enhancing the Effectiveness of Afghanistan's Anti-corruption Agencies</i> (2017), Transparency International analysed Afghanistan's current anti-corruption agency system and proposed three reform models that could lead to a more effective, independent and sustainable anti-corruption agency system in the country.¹⁸⁵ In September 2017, President Ashraf Ghani approved the Afghanistan National Strategy for Combatting Corruption".¹⁸⁶ The strategy does not envisage an independent and effective anti-corruption system that ensures all anti-corruption agency functions are included.¹⁸⁷

DIMENSION IMPLEMENTATION AND COMPLIANCE	
Indicator number	9.4
Indicator question(s)	* Supreme audit institution • To what extent is there formal operational independence of the audit institution, and what evidence is there that, in practice, it can perform its work without external interference? • To what extent does it have adequate resources and capacity to achieve its goals in practice? • To what extent are there mechanisms in place to ensure the integrity of the audit institution, and to what extent is its integrity ensured in practice? • To what extent does the audit institution provide effective audits of public expenditure? Are its reports, findings, and recommendations available to the public?
Response	In Afghanistan, the Supreme Audit Office has the mandate for enhancing fiscal transparency and public accountability by overseeing and auditing the financial activities of the government, government-funded organisations and public–private partnerships. The National Integrity System Afghanistan assessment shows that the Supreme Audit Office is the strongest pillar of Afghanistan’s national integrity system. Its overall performance has improved over recent years, mainly due to some increases in financial, human and physical resources. Despite this improvement, the lack of skilled and professional staff, advanced technical resources for data analysis, and a sufficient budget remain major obstacles to its effectiveness. It has four regional offices. The Office website contains important information about its activities. The public can access information about audit reports and the Office’s activities. The Office prepares and submits all required audit reports to the President and Parliament (Wolesi Jirga) on an annual basis.¹⁸⁸ The Afghanistan National Strategy for Combatting Corruption proposes reform to the Supreme Audit Office, which includes revising its law by June 2018.¹⁸⁹ Additionally, it includes deploying 150 trained auditors to the Office.

DIMENSION	IMPLEMENTATION AND COMPLIANCE
Indicator number	9.5
Indicator question(s)	* Judiciary • To what extent is the judiciary independent by law, and to what extent does it operate without interference from the government or other actors? • To what extent are there laws seeking to ensure appropriate tenure policies, salaries and working conditions of the judiciary, and does it have adequate levels of financial resources, staffing, and infrastructure to operate effectively in practice? • To what extent does the public have access to judicial information and activities in practice? • To what extent is the integrity of members of the judiciary ensured in practice? • To what extent is the judiciary committed to fighting corruption through prosecution and other activities?
Response	The judiciary is extremely weak and was assessed in 2015 by Transparency International's National Integrity System assessment as amongst the weakest pillars of that system in Afghanistan. Despite the formal separation of powers and independence awarded by Article 116 of the Constitution, the judiciary is seen as being driven and manipulated by both the executive and the National Assembly. The decisions of the judiciary, especially those related to government officials and members of the legislature and the economic elite, are considered to be biased in their favour. Moreover, even though the salaries of judges are 10 times higher than those of an average civil servant (Supreme Court judges receive a salary close to that of the Vice-President), the judiciary is perceived to be the most corrupt institution in the country. To address corruption in the judiciary, the following actions were taken in 2016: • the Supreme Court took the following measures in 2016: - appointment and rotation of 695 high-ranking judges - appointment and rotation of 2260 judicial clerks, administrative staff and support staff in 16 provinces¹⁹⁰ - the dismissal of seven judges over charges of corruption¹⁹¹ • a Justice Sector Reform plan was approved on 26 December 2016¹⁹² The Afghanistan National Strategy for Combatting Corruption mandates the Supreme Court to establish an independent judicial commission by June 2018, to ensure trials are open to the public in accordance with the law, to encourage community monitoring, and to make court verdicts public at the local level by December 2018.¹⁹³ Moreover, the Afghanistan National Strategy for Combatting Corruption mandates the Supreme Court to broaden the membership of the Stage Committee by including representatives from the legislative, judiciary, executive and relevant civil society organisations, including members of academia and foreign experts, and to restrict appointments outside of the Stage process and ensure they take place according to a transparent and competitive process by June 2018.¹⁹⁴

DIMENSION	IMPLEMENTATION AND COMPLIANCE
Indicator number	9.6
Indicator question(s)	* Law enforcement agencies - To what extent are law enforcement agencies independent by law, and to what extent are they independent in practice? - To what extent do law enforcement agencies have adequate levels of financial resources, staffing and infrastructure to operate effectively in practice? - To what extent do law enforcement agencies have to report, and be answerable for, their actions in practice? To what extent is the integrity of members of law enforcement agencies ensured? - To what extent do law enforcement agencies detect and investigate corruption cases in the country?
Response	Both the Attorney General's Office and the Afghan National Police suffer from a lack of technical and human resources, and professional staff to carry out their duties effectively.¹⁹⁵ Furthermore, there are allegations that law enforcement agencies, especially the police, are used as an instrument by government officials, the National Assembly, and political and economic forces to serve their interests.¹⁹⁶ The Ministry of Interior has been highlighted by President Ghani as being the most corrupt ministry in Afghanistan.¹⁹⁷ In cases of investigation, people associated with the above-mentioned authorities are often afforded preferential treatment.¹⁹⁸

10. PRIVATE SECTOR CORRUPTION

DIMENSION	LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	10.1
Indicator question(s)	Is it a criminal offence under the country's laws to bribe a foreign public official?
Scoring	● 1: The offence is clearly defined and banned ● 0.5: The offence is banned, but there are shortcomings in its definition ● 0: The offence is not adequately defined or not banned ○ - : Not applicable or no data available
Response	Article 254 of the Penal Code¹⁹⁹ criminalises active and passive bribery (see Sections 9 above). Additionally, Penal Code Annex 4,²⁰⁰ Article Two extends the bribery offences to include members of international organisations, international governmental organisations, non-governmental organisation, officials of foreign countries and the private sector. Article 7 of the Law on Monitoring Anti-Corruption Strategy²⁰¹ extends corruption offences to include the private sector.

DIMENSION	LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	10.2
Indicator question(s)	Does the country's legal framework prohibit collusion?
Scoring	● 1: The offence is clearly defined and banned ● 0.5: The offence is banned, but there are shortcomings in its definition ● 0: The offence is not adequately defined or not banned ○ - : Not applicable or no data available

DIMENSION	IMPLEMENTATION AND COMPLIANCE
Indicator number	10.3
Indicator question(s)	Is the ban on foreign bribery enforced?
Response	There are no publicly available cases where foreign bribery offences have been enforced within Afghanistan.
Indicator number	10.4
Indicator question(s)	Are anti-collusion provisions effectively enforced?
Response	NA (no available data).

11. TRANSPARENCY AND INTEGRITY IN ADMINISTRATION

DIMENSION	LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	11.1
Indicator question(s)	Is there a law, regulation or code of conduct in place covering public officials, employees and representatives of the national government, that adequately addresses the following issues: • integrity, fairness and impartiality • gifts, benefits and hospitality • conflicts of interest?
Scoring	● 1: A law, regulation or code of conduct is in place and addresses the aspects mentioned above ● 0.5: A law, regulation or code of conduct is in place but only addresses two of the aspects mentioned above ● 0.25: A law, regulation or code of conduct is in place but only addresses one of the aspects mentioned above ● 0: No law, regulation or code of conduct is in place or an existing law, regulation or code fails to address any of those aspects ○ - : Not applicable or no data available
Response	The Civil Servants Code of Conduct requires integrity by public sector employees.²⁰² Civil servants are not allowed to receive or give any gift, or material or immaterial interests, to/ from their line managers, relatives and anyone else in relation to their job.²⁰³ Moreover, they are prohibited from making unauthorised use of official equipment and properties/facilities for personal purposes. Civil servants shall perform their duties in an impartial and honest manner. They should not get involved in activities which undermine the integrity of their respected organisation. According to Article 26 of the Afghanistan Civil Services Law, civil servants are prohibited from having any other employment during office hours.²⁰⁴ Furthermore, civil servants are not allowed to provide any secret information of the relevant organisation to anyone, unless directed to do so.²⁰⁵ An employee also cannot provide information to the public that is against the policy of the respective organisation or that damages the image of the respective organisation in the eyes and mind of the public. To avoid conflicts of interest, civil servants cannot be hired in any public sector institutions where the direct supervisor is a close relative (for example, father, mother, son, daughter, brother, sister, husband or wife).²⁰⁶ The code of conduct does not include any rules and regulations about the employment of public sector officials after they leave their public sector employment. After the end of their official employment, civil servants are allowed to do any work of their choice, but they should not use their official position for personal benefit.

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	11.2	
Indicator question(s)	Is there a law or clear policy in place to address the “revolving door” – the movement of individuals between public office and private sector, while working on the same sector or issue, which may result in conflicts of interest and in former public officials misusing the information and power they hold to benefit private interests?	
Scoring	● 1: There is a law or clear policy addressing the “revolving door” ● 0: There is no law or policy addressing the “revolving door” ○ - : Not applicable or no data available	
Response	There is no law or policy. In practice, members of the executive move back and forth between business and government positions (revolving door) without any legal restrictions. There are examples of officials who have started their own small or large businesses after their executive jobs.“ There are also examples of officials who had their own businesses prior to becoming part of the executive although the President and the ministers cannot legally own businesses while in the government jobs”. ²⁰⁷	
Indicator number	11.3	
Indicator question(s)	Does the law or policy that addresses the “revolving door” cover all relevant public sector decision-makers?	
Scoring	● 1: The law or policy in principle provides comprehensive coverage of relevant public sector decision-makers ● 0.5: The law or policy addressing the “revolving door” covers most relevant public sector decision-makers but fails to include some relevant positions ● 0.25: The law or policy addressing the “revolving door” only applies to some relevant decision-makers and fails to include many relevant decision-making posts. ● 0: No law or policy exists or an existing law or policy does not specify which positions are covered ○ - : Not applicable or no data available	
Response	There is no revolving door law or policy. See response to 11.2.	
Indicator number	11.4	
Indicator question(s)	Is there a mandatory cooling-off period – a minimum time interval restricting former officials from accepting employment in the private sector that relates to their former position – for members of the government and other relevant high-level decision-makers?	
Scoring	● 1: The policy contains a minimum cooling-off period of at least two years for certain positions and cases where the new employment of former government members and other high-level decision-makers would result in a conflict of interest ● 0.5: The policy contains a minimum cooling-off period of at least six months for certain positions and cases where the new employment of former government members and other high-level decision-makers would result in a conflict of interest ● 0: There are no or shorter minimum post-employment restrictions ○ - : Not applicable or no data available	
Response	See response to 11.1. The code of conduct does not include any rules and regulations about the employment of public sector officials after their public sector employment ends. After the end of their official employment, civil servants are allowed to do any work of their choice, but they should not use their official position for personal benefit. ²⁰⁸	

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	11.5	
Indicator question(s)	Is there a single public body or are there designated authorities responsible for providing advice and overseeing “revolving door” regulations?	
Scoring	● 1: There is a single body, or there are various designated authorities charged with providing advice and overseeing the implementation of the policy ● 0: No authority or public body is charged with overseeing the implementation of the policy ○ - : Not applicable or no data available	
Response	There is no revolving door law or policy. See response to 11.2.	
Indicator number	11.6	
Indicator question(s)	Are there proportionate and dissuasive sanctions for both individuals and companies that do not comply with the law or policy controlling the “revolving door”?	
Scoring	● 1: Sanctions in the law (or policy) can be considered proportionate and dissuasive ● 0.5: There are sanctions in the law (or policy) but they are not considered to be proportionate and dissuasive ● 0: The law (or policy) includes no sanctions ○ - : Not applicable or no data available	
Response	There is no revolving door law or policy. See response to 11.2.	
DIMENSION		IMPLEMENTATION AND COMPLIANCE
Indicator number	11.7	
Indicator question(s)	Are the revolving door provisions implemented and enforced in practice? Have there been any developments in the past year that indicate an improvement (or deterioration) in how the revolving door and related conflicts of interests are addressed?	
Response	There is no revolving door law or policy. See response to 11.2.	

DIMENSION LEGISLATIVE AND INSTITUTIONAL FRAMEWORK	
Indicator number	11.8
Indicator question(s)	Does the legal framework require high-level public officials and senior civil servants to regularly (at least once per year) declare their interests, including any paid or unpaid positions and financial interests in companies and other entities, as well as their income and assets?
Scoring	● 1: The legal framework requires high-level public officials and senior civil servants to declare their interests, as well as their income and assets, at least once per year. ● 0.5: The legal framework requires high-level public officials and senior civil servants to declare their interests or their income and assets at least once per year ● 0: High-level public officials and senior civil servants are not required to regularly declare their interests or their income and assets ○ - : Not applicable or no data available
Response	High-level public officials and senior civil services are required to declare their assets under the following laws and regulations: - Article 154 of the Constitution of Afghanistan²⁰⁹ requires the President, Vice-Presidents, ministers, members of the Supreme Court, as well as the Attorney General, to declare their “wealth” - the Law on the Supervision and Implementation of the Anti-Corruption Strategy was amended in 2016 to extend this obligation to all high-level public officials and senior servants,²¹⁰ and to include asset verification mechanisms and sanctions for non-compliance The Asset Registration Form includes the salary income of public officials, but it does not include the interest disclosure.²¹¹ Disclosure of interests is regulated under each institution’s code of conduct, including the Civil Servants Code of Conduct (see 11.1). Disclosure of income is also regulated under taxation legislation.
Indicator number	11.9
Indicator question(s)	Do the interest disclosure requirements cover officials of all branches of government – executive, the legislature, the judiciary and civil service – as well as other relevant public bodies?
Scoring	● 1: The interest disclosure applies to high-level officials from the executive, legislature, judiciary and civil service/other public bodies ● 0.75: The interest disclosure applies to three of these sectors ● 0.5: The interest disclosure applies to two branches of government ● 0.25: The interest disclosure applies to one branch of government ● 0: There is no interest disclosure requirement ○ - : Not applicable or no data available
Response	See response to 11.8. Government officials are required to declare their interests under the code of conduct²¹², but these are not made public.

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	11.10	
Indicator question(s)	Do the income and asset disclosure requirements cover officials of all branches of government – executive, the legislature, the judiciary and civil service – as well as other relevant public bodies?	
Scoring	● 1: The asset and income disclosure applies to high-level officials from the executive, legislature, judiciary and civil service/other public bodies ● 0.75: The asset disclosure applies to three of these sectors ● 0.5: The asset disclosure applies to two branches of government ● 0.25: The asset disclosure applies to one branch of government ● 0: There is no asset disclosure requirement ○ - : Not applicable or no data available	
Response	See response to 11.8.	
Indicator number	11.11	
Indicator question(s)	Does the framework require that information contained in income and asset declarations be made publicly accessible?	
Scoring	● 1: All or most information contained in interest and asset disclosure forms has to be made available to the public (some redaction may be necessary to protect legitimate privacy interests) ● 0.5: Information from interest and asset declarations has to be partly made public, there are significant omissions ● 0.25: Only some information from either interest or asset declarations has to be made publicly accessible ● 0: No information contained in interest and asset declarations has to be made publicly accessible ○ - : Not applicable or no data available	
Response	High Office of Oversight and Anti-Corruption (HOOAC) website has published only about 3 per cent of total declarations filled. HOOAC reportedly claims that security or privacy concerns preclude broader publication of declarations.²¹³ The Asset Registration Form includes the salary income of public officials, but it does not include the interest disclosure.²¹⁴ There are various policies and laws requiring income to be disclosed to the tax office during annual tax assessments, but there is no specific legislation requiring the information about income and assets to be made publicly available. Government officials are required to declare their interests under the code of conduct and taxation legislation, but these are not made public.	

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	11.12	
Indicator question(s)	Does the legal framework establish an oversight body that is provided with sufficient political independence and legal powers to scrutinise income and asset disclosures?	
Scoring	● 1: The legal framework provides for an independent oversight mechanism with sufficient independence and powers to scrutinise income and asset declarations ● 0.75 The legal framework provides for oversight of the income and asset declarations, but only provides the body or bodies with either sufficient independence or with adequate powers to scrutinise the submissions, but not both ● 0.25: The legal framework provides for oversight of the income and asset declarations, but provides the body or bodies neither with sufficient independence nor with adequate powers to scrutinise the submissions ● 0: The legal framework does not provide for any oversight of the income and asset declarations ○ - : Not applicable or no data available	
Response	Asset declaration is the HOOAC's primary mandate and is a priority for the Afghan government and international community. In October 2016, the HOOAC's asset registration mandate was extended and strengthened in response to an International Monetary Fund benchmark.²¹⁵ However, in practice the HOOAC does not have sufficient capacity to implement this regime, particularly regarding asset verification. Punitive measures can be taken against those individuals who do not comply with this regime (including suspension of their salary and financial benefits).²¹⁶ There are various policies and laws requiring income to be disclosed to the tax office during annual tax assessment, but no specific legislation requiring public officials to disclose their income or interests.	

LEGISLATIVE AND INSTITUTIONAL FRAMEWORK	
Indicator number	11.13
Indicator question(s)	Does the law or policy contain dissuasive and proportionate sanctions for failure to comply with interest and asset disclosure requirements?
Scoring	● 1: The law or policy contains dissuasive and proportionate sanctions for non-filing of disclosures, or for incomplete or false claims made in disclosures, covering both interests and assets ● 0.75: The law or policy contains sanctions for non-filing of disclosures, or for incomplete or false claims made in both interests and assets disclosures, but only in one of the two areas are they dissuasive and proportionate ● 0.5: The law or policy contains sanctions covering interest and asset disclosures, but they are not dissuasive and proportionate ● 0.25: The law or policy contains sanctions covering interest and asset disclosures but they only cover some types of non-compliance (such as false or incomplete claims), while failing to address other forms of non-compliance (such as the non-submission of declarations) ● 0: The law or policy contains no sanctions for non-submission of declarations, or for incomplete or false claims made in disclosures ○ - : Not applicable or no data available
Response	Asset disclosure: Since 2008, the HOOAC has distributed 15,000 asset registration forms and registered the assets of 8,000²¹⁷ governmental officials.²¹⁸ In October 2016, the HOOAC's mandate was extended to include the ability to impose sanctions for non-compliance. On 21 December 2016, the HOOAC publicly released the names of 14 senior government officials who had not declared their assets,²¹⁹ and requested punitive measures be taken against these individuals (including suspension of their salaries and financial benefits).²²⁰ Moreover, if false or misleading information is provided in the disclosure form, the perpetrator is subject to prosecutions.²²¹ Income disclosure: There are various policies and laws requiring income to be disclosed to the tax office during annual tax assessment, but no specific legislation requiring public officials to disclose their interests. Sanctions are administered by the tax office.

IMPLEMENTATION AND COMPLIANCE	
Indicator number	*11.14
Indicator question(s)	* Have there been cases in the past two years of sanctions being imposed on elected or high-level public officials or senior civil servants for failing to file declarations of their interests or their assets and income, or for intentionally providing false or incomplete information in their disclosures, according to publicly available evidence?
Response	See response 11.13.

DIMENSION IMPLEMENTATION AND COMPLIANCE	
Indicator number	11.15
Indicator question(s)	How do you evaluate the effectiveness of the disclosure mechanism for interests, assets and income? Is there a disclosure requirement for gifts and hospitality received by public officials and civil servants (if applicable)? Have there been any developments in the past two years that indicate an improvement or a deterioration in the disclosure mechanism?
Response	Asset declaration has been the primary focus of the Afghan government and has improved in recent years (see questions 11.12 and 11.13). Disclosure of interests is regulated under each institution's code of conduct, including the Civil Servants Code of Conduct (see 11.1). Disclosure of income is regulated under taxation legislation.
Indicator number	*11.16
Indicator question(s)	* Does publicly available evidence suggest that sufficient resources are allocated to the implementation of an ethics infrastructure? Have there been other noteworthy changes to the public sector ethics framework, based on publicly available evidence? • <i>Have integrity advisers or units been established in ministries and other public bodies?</i> • <i>Are trainings on the Code of Conduct for public sector employees carried out?</i> • <i>Are other measures taken to promote and raise awareness of the ethics regulation?</i> • <i>Have an anti-corruption agency, the supreme audit institution or civil society organisations raised concerns about insufficient resources?</i> • <i>Have assigned resources improved over the last two years?</i>

12. LOBBYING TRANSPARENCY

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	12.1	
Indicator question(s)	Is there a law or policy that sets a framework for lobbyists and lobbying activities?	
Scoring	● 1: There is a legal framework that regulates lobbying ● 0: There is no such framework ○ - : Not applicable or no data available	
Response	Historically, in Afghan political culture, lobbying has not been recognised as an activity that requires regulation. Lobbying groups are not recognised in Afghan law. As a consequence, members of the National Assembly are not required to disclose their contacts with informal lobbying groups that exist in Afghanistan.²²² A draft Lobbying Law was proposed to make lobbying practices more transparent and to prohibit the receipt of gifts from lobbyists.²²³ In practice, MPs are lobbied by numerous groups (state and non-state) for their support on various legislative and political decisions. This practice undermines transparency and accountability, and contributes to poor governance and to corruption.	
Indicator number	12.2	
Indicator question(s)	Is the definition of (i) lobbyists, (ii) lobbying targets, and (iii) lobbying activities clear and unambiguous? Who is covered by the definition (consultant lobbyists/in-house lobbyists/ anybody engaging in lobbying activities)?	
Scoring	● 1: All those who engage in lobbying are covered by the regulations ● 0.5: Only consultant lobbyists and in-house lobbyists are covered ● 0.25: Only consultant lobbyists are covered ● 0: There is no legislative framework on lobbying ○ - : Not applicable or no data available	
Response	See response 12.1	
Indicator number	12.3	
Indicator question(s)	Is there a mandatory lobbying register? Do disclosure requirements provide sufficient and relevant information on key aspects of lobbying and lobbyists, such as its objective, beneficiaries, funding sources and targets?	
Scoring	● 1: There is a mandatory lobby register ● 0.5: There is a voluntary lobby register; only some lobbyists are required to register ● 0: No such information is made publicly accessible through a register ○ - : Not applicable or no data available	
Response	See response 12.1	

DIMENSION IMPLEMENTATION AND COMPLIANCE	
Indicator number	12.4
Indicator question(s)	Are there rules and guidelines which set standards for expected behaviour for public officials and lobbyists – for example, to avoid misuse of confidential information?
Response	See response 12.1
Indicator number	12.5
Indicator question(s)	Are procedures for securing compliance framed in a coherent spectrum of strategies and mechanisms, including monitoring and enforcement?
Response	See response 12.1
Indicator number	12.6
Indicator question(s)	Are there documented cases of lobbying misconduct that have been investigated in the past two years? Are there documented cases of sanctions being imposed for non-compliance?
Response	See response 12.1
Indicator number	12.7
Indicator question(s)	Have there been noteworthy efforts to promote transparency and integrity related to lobbying in the past two years? Have there been relevant changes to the framework or its implementation?
Response	A draft Lobbying Law was proposed to make lobbying practices more transparent and prohibit the receipt of gifts from lobbyists.²²⁴ See also response 12.1.

13. WHISTLEBLOWING

DIMENSION	LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	13.1
Indicator question(s)	Is there a legal framework to protect whistleblowers, from the public and the private sector, who report reasonable belief of wrongdoing?
Scoring	● 1: The law provides protection for whistleblowers from both public and private sectors ● 0.5: The law provides protection for whistleblowers from either the public or the private sector ● 0: There is no protection of whistleblowers guaranteed by law ○ - : Not applicable or no data available
Response	Article 14, Section 2 of the Law on Anti-Corruption Strategy contains a general whistleblowing provision for administrative corruption cases, stating that disclosing, without their consent, the identity of an informant, witness, intellectual or a person who provides evidence and documents is prohibited.²²⁵ Article 7 extends the Law on Anti-Corruption Strategy jurisdiction to include the public and private sectors. The Law on Anti-Corruption Strategy protects, and even rewards, whistleblowers. It states that “individuals who cooperate in good will in the discovery of administrative corruption cases as an informant, or assist during the investigation of a trial as a witness, or provide proof/admissible evidence and documents, shall be immune from any type of pressure, intimidation and ill-treatment, and shall be rewarded.”²²⁶ Additionally, the Penal Code (Annex 4, Article 11) includes provisions regarding whistleblowers, stating that “anyone who threatens a whistleblower or a person who presents evidence in a corruption case, or causes financial or physical harm to him/her, based on the circumstances will be charged for medium punishment of up to three years.” Article 11 also specifies that the minimum punishment for disclosing the identity of whistleblower without his/her consent is “not less than three months”. Afghan civil society organisations and the Parliamentary Anti-corruption Caucus²²⁷ have been lobbying for a separate and comprehensive whistleblower protection law to replace the current provisions in the Civil Service Law and the Penal Code. On 20 July 2016, the Whistleblowers Protection Draft Law was tabled by Caucus members in the lower house. This draft law enables government and private sector employees and Afghan citizens to report corruption and other wrongdoing. However, the draft law has been pending in parliament for the last 11 months;²²⁸ it was removed from the Parliamentary Agenda in early 2017 and there appears to be no serious intention by the MPs to enact it.²²⁹ The Caucus will continue to advocate for this law to be brought back onto the Parliamentary Agenda and enacted.

DIMENSION LEGISLATIVE AND INSTITUTIONAL FRAMEWORK	
Indicator number	*13.2
Indicator question(s)	* Does the law provide for a broad definition of whistleblowing?
Scoring	● 1: The law contains a broad definition of whistleblowing that is fully in line with Transparency International's principles ● 0.75: The law contains a broad definition of whistleblowing that is largely in line with Transparency International's principles ● 0.5: The law contains a definition of whistleblowing that is partly in line with Transparency International's principles but excludes some important potential cases ● 0: The law does not contain a definition of whistleblowing, or the definition is very narrow ○ - : Not applicable or no data available
Response	The Law on Anti-Administrative Corruption Strategy does not include a definition of "whistleblower" but the following categories of individuals fall within the general whistleblowing provision (Article 14): "informant, witness, intellectual or the person who provides evidence and document".²³⁰ It limits whistleblowing to acts of corruption. The Penal Code does not include a definition of "whistleblower". The whistleblower provision (Annex 4, Article 11) applies to "anyone who threatens a whistleblower or a person who presents evidence including in corruption case". However, in the new Afghanistan National Strategy for Combatting Corruption the government commits to enacting a whistleblower protection law by December 2017.²³¹
Indicator number	*13.3
Indicator question(s)	* Does the law provide sufficient protection for whistleblowers?
Scoring	● 1: The law does provide strong protection for whistleblowers ● 0.75: The law provides good protection for whistleblowers, but there are some important weaknesses ● 0.5: The law provides limited protection for whistleblowers ● 0: The law provides no or insufficient protection for whistleblowers ○ - : Not applicable or no data available
Response	Article 11 of the Penal Code specifies that the minimum punishment for disclosing the identity of a whistleblower without his/her consent is "not less than three months". This penalty also applies to violations of the whistleblower provision in the Law on Anti-Administrative Corruption Strategy (Article 14). However, despite these legal protections in place for whistleblowers, in practice there is insufficient protection for whistleblowers. Potential whistleblowers are deterred from reporting out of fear for their personal safety; it can be very dangerous for whistleblowers to report on wrongdoing, for fear of retaliatory action.²³² Additionally, public trust in law enforcement agencies and the judiciary is very low, which further deters whistleblowers from reporting as their complaint may not be effectively investigated and prosecuted.

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	*13.4	
Indicator question(s)	* Does the law provide for adequate disclosure procedures?	
Scoring	● 1: The law provides for strong disclosure procedures ● 0.5: The law fails to address some important aspects ● 0: The law provides no or inadequate disclosure procedures ○ -: Not applicable or no data available	
Response	Both the Law on Anti-Administrative Corruption Strategy and the Penal Code are silent as to disclosure procedures for whistleblowers.	
Indicator number	13.5	
Indicator question(s)	Is there a law/policy that establishes a dedicated reporting mechanism for witnesses and victims of corruption (such as a hotline or a secure and anonymous electronic post box)? Does the law provide the body charged with operating it with sufficient independence and powers to investigate the reports it receives?	
Scoring	● 1: The law/policy creates a dedicated reporting mechanism for witnesses and victims of corruption. The body charged with operating it is provided with sufficient independence and powers to investigate the reports it receives ● 0.5: The law/policy creates a dedicated reporting mechanism for witnesses and victims of corruption, but it does not provide the body charged with operating it with sufficient independence and powers to investigate the reports it receives ● 0: There is no law or policy mandating that a dedicated reporting mechanism for witnesses and victims of corruption be established ○ -: Not applicable or no data available	
Response	Afghan citizens can report corruption complaints to the HOOAC by telephone or email, in person, or by leaving their complaints in the complaints boxes available at government agencies. ²³³ However, the HOOAC requires the identity of the informants to be provided in order to take up the case, which may deter potential whistleblowers from reporting, due to fear of retaliation.	
DIMENSION		IMPLEMENTATION AND COMPLIANCE
Indicator number	13.6	
Indicator question(s)	Does such a dedicated reporting mechanism for witnesses and victims of corruption exist in practice?	
Response	See responses 13.3 and 13.5 above.	
Indicator number	13.7	
Indicator question(s)	Is data and information regarding the functioning of whistleblower laws and reporting frameworks (in compliance with relevant privacy and data protection laws) published?	
Response	No. The HOOAC reports the number of corruption complaints on an annual basis (in its annual report), however there is no disaggregation for complaints by whistleblowers.	

DIMENSION IMPLEMENTATION AND COMPLIANCE	
Indicator number	13.8
Indicator question(s)	Is there evidence that relevant state bodies have taken active steps to promote public awareness of this reporting mechanism?
Response	No. There is no anti-corruption agency in Afghanistan mandated to actively undertake corruption education and awareness-raising activities.²³⁴ The HOOAC has a basic website publicising the mechanisms for Afghans to report corruption complaints, however the HOOAC does not undertake awareness-raising programmes to promote their use.²³⁵
Indicator number	13.9
Indicator question(s)	Have there been prominent cases in the past two years where wrongdoing and corruption were unveiled by a whistleblower or through a reporting mechanism? <i>Please provide short descriptions and relevant links/sources.</i> • Have whistleblowers, in practice, been prosecuted or faced retaliation for unveiling wrongdoing? Where their legally guaranteed rights violated? <i>Please provide a brief description of relevant cases from the past two years, including relevant sources and a few links to media coverage.</i> • Were any steps taken to improve the system of whistleblower protection?
Response	No data available. See also response to 13.3.

14. PARTY AND CAMPAIGN FINANCE TRANSPARENCY

DIMENSION	LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	14.1
Indicator question(s)	Is there a legal framework regulating the financing of political parties and the finances of candidates running for elected office?
Scoring	● 1: There is a legal framework regulating the financing of political parties and the finances of candidates running for elected office ● 0.5: There is a legal framework regulating the financing of political parties and the finances of candidates running for elected office but some actors or candidates are not subject to this regulation ● 0: There is no such framework ○ - : Not applicable or no data available
Response	There are two main laws regulating the financing of political parties and candidates running for election: • Law on Political Parties (OG 996) 6 September 2009.²³⁶ - Article 14: Transparency on sources of funding of political parties - Article 15: Transparency on quantity of funding of political parties - Article 16: Responsibilities of political parties' finance officers • Election Law (OG 1226) 2 September 2016²³⁷ - Article 73: Application for Candidacy - Article 77: Electoral Expense Limits - Article 99: Electoral Crimes and Their Punishments To avoid potential conflicts of interest, the Constitution of Afghanistan prohibits political parties from directly nominating people for the presidency, for parliamentary seats, or for government positions. Furthermore, people associated with political parties are not allowed to become judges, prosecutors or members of the armed forces or police force.²³⁸ Political parties have functioned unofficially in Afghanistan since the 1960s. Currently, there are 63 political parties²³⁹ officially registered with the Ministry of Justice. Overall, the country's political party system can be described as very weak, with trust placed more readily in personal networks than in the political system. Most of the political parties are formed around influential political figures, warlords, or religious leaders, rather than concrete political, social and economic programmes.²⁴⁰ Rather than aggregating collective interests, many political parties are seen instead as playing a divisive role, thanks to their legacy of "factional splits, ethnic politics and changing alliances".²⁴¹

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	14.2	
Indicator question(s)	Are political parties and individual candidates running for elected office required to disclose financial statements for their campaigns detailing itemised income and expenditure, as well as individual donors to their campaign finances?	
Scoring	● 1: Political parties (and, if applicable, political candidates) are required to release itemised income and expenditure reports on their campaigns and to disclose donors who have contributed to a party's or candidate's electoral campaign, with the threshold of disclosure at 1,000 Euro/US\$ or less ● 0.5: Political parties (and, if applicable, political candidates) are required to release income reports of political campaigns to the public and to disclose major donors who have contributed to a campaign, with a threshold of disclosure of between 1,001 and 5,000 Euro/US\$ ● 0.25: Political parties (and, if applicable, political candidates) are required to release income reports of political campaigns to the public and to disclose big donors of an electoral campaign, with the threshold being between 5,001 and 20,000 Euro/US\$ ● 0: Parties and candidates are not required to release financial information, or the reporting does not require the disclosure of donors who contributed more than 20,001 Euro/US\$ to a campaign ○ - : Not applicable or no data available	
Response	Article 77(2) of the Election Law²⁴² obliges candidates to “accurately report to the Commission on their funding sources and limits and areas of expenses in their electoral campaigns”. It does not specify a threshold for itemising such expenses. The Law on Political Parties²⁴³ does not impose any obligations on political parties to release itemised income and expenditure reports.	
Indicator number	14.3	
Indicator question(s)	Are political parties, and, if applicable, individual candidates running for elected office, required to disclose annual accounts with itemised income and expenditure and individual donors?	
Scoring	● 1: Political parties (and, if applicable, political candidates) are required to release itemised income and expenditure reports on their annual accounts and disclose donors who have contributed to a party's or candidate's annual finances, with the threshold of disclosure being 1,000 Euro/US\$ or less ● 0.5: Political parties (and, if applicable, political candidates) are required to release annual income reports to the public and to disclose major donors, with a threshold of between 1,001 and 5,000 Euro/US\$ in contributions over one year ● 0.25: Political parties (and, if applicable, political candidates) are required to release annual income reports to the public and to disclose big donors, with the threshold being between 5,001 and 20,000 Euro/US\$ in contributions over one year ● 0: Parties and candidates are not required to release annual financial information, or the reporting does not require the disclosure of donors who have contributed more than 20,001 Euro/US\$ over one year ○ - : Not applicable or no data available	
Response	N/A	

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	14.4	
Indicator question(s)	Are parties' (and, if applicable, candidates') electoral campaign expenditures subject to independent scrutiny?	
Scoring	● 1: The campaign finances of parties and/or candidates for elected office are subject to independent verification, and the legal framework provides the oversight body with sufficient independence, powers and resources to scrutinise the statements and accounts in an effective manner ● 0.5: The campaign finances of parties and/or candidates for elected office are subject to verification, but the available legal framework fails to guarantee the political independence of the oversight body and/or does not provide the oversight body with sufficient powers and resources to effectively scrutinise the statements and accounts in an effective manner ● 0: Parties and/or candidates are not required to release financial information on their electoral campaigns, or the law does provide for a control mechanism ○ - : Not applicable or no data available	
Response	Parties and candidates are not required to automatically disclose their campaign finances, however some government institutions (including the Attorney General's Office and FinTRACA) have the authority to request these accounts if they are aware of suspicious transactions.	
Indicator number	14.5	
Indicator question(s)	Are the annual accounts of political parties (and, if applicable, of candidates) subject to independent scrutiny?	
Scoring	● 1: Annual financial statements of parties and/or candidates are subject to independent verification, the legal framework provides the oversight body with sufficient independence, powers and resources to scrutinise the statements and accounts in an effective manner ● 0.5: Annual financial statements of parties and/or candidates for elected office are subject to verification, but the available legal framework fails to guarantee the political independence of the oversight body and/or does not provide the oversight body with sufficient powers and resources to effectively scrutinise the statements and accounts in an effective manner ● 0: Parties and/or candidates are not required to release annual financial statements, or the law does not provide for a control mechanism ○ - : Not applicable or no data available	
Response	See response to 14.4.	
DIMENSION		IMPLEMENTATION AND COMPLIANCE
Indicator number	14.7	
Indicator question(s)	Have political parties and/or candidates been sanctioned for violating political finance rules or non-compliance with disclosure requirements in the past two years, according to publicly available evidence?	
Response	No cases have been reported publicly.	

15. FISCAL TRANSPARENCY

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	15.1	
Indicator question(s)	Is there legislation or policy in place requiring a high degree of fiscal transparency?	
Scoring	● 1: The legal framework requires a high degree of fiscal transparency and the publication of all the key budget documents listed above ● 0.75: The legal framework requires a fairly high degree of fiscal transparency and the publication of seven of the key budget documents ● 0.5: The legal framework requires some degree of fiscal transparency and the release of six of the key budget documents ● 0.25: The legal framework requires little fiscal transparency and only the release of five of the key budget documents ● 0: The legal framework requires insufficient transparency and only the release of four or less of the key budget documents ○ - : Not applicable or no data available	
Response	The Public Financial and Expenditures Management Law regulates the management of financial affairs and public expenditure. ²⁴⁴	

DIMENSION		THIRD-PARTY ASSESSMENT
Indicator number	15.2	
Indicator question(s)	What is the country's score and rank in the most recent Open Budget Survey, conducted by the International Budget Partnership (http://www.internationalbudget.org/opening-budgets/open-budget-initiative/open-budget-survey/update/#2016-country-results)?	
Response	Afghanistan scored 42 out of 100 in Open Budget Survey 2015, as the government made seven out of eight key budget documents publicly available online in a timeframe consistent with international standards.²⁴⁵ Afghanistan's 2016 score is not available but it will improve. As at 31 December 2016, the government of Afghanistan makes eight out of eight key budget documents publicly available online in a timeframe consistent with international standards. This reflects a net increase over the findings of the Open Budget Survey 2015, which assessed the availability of documents up to 30 June 2014. Since that assessment, Afghanistan has published a Mid-Year Review.²⁴⁶	

DIMENSION	IMPLEMENTATION AND COMPLIANCE
Indicator number	15.3
Indicator question(s)	Are key budget-related documents published in practice? <i>Key budget documents are pre-budget statements, executive budget proposal and supporting documents, enacted budget, citizen budget, in-year reports in budget success and execution, mid-year reviews, year-end reports and audit reports. Is the information available in formats that facilitate use and analysis of the data? You can find information on the availability of these documents in the Open Budget Survey (http://www.internationalbudget.org/opening-budgets/open-budget-initiative/open-budget-survey/update/).</i>
Response	Yes. (See response to 15.2.)

16. PUBLIC PROCUREMENT

DIMENSION	LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	16.1
Indicator question(s)	Does the law clearly define up to what threshold(s) sole-sourced purchases of goods, services and public works are allowed?
Scoring	● 1: Thresholds concerning the sole-sourcing of goods, services and public works are clearly defined by law ● 0.75: Thresholds concerning the sole-sourcing of goods, services and public works are clearly defined by a decree (or a similar administrative standard) ● 0.25: Thresholds for two of the three categories are clearly defined by a law or a decree ● 0: Thresholds for only one or none of the categories are defined by a law or a decree ○ - : Not applicable or no data available
Indicator number	16.2
Indicator question(s)	What are exceptions in the legal framework for public procurement that allow for sole-sourced contracting above these thresholds?
Scoring	● 1: Sole-sourcing of contracts above certain thresholds is not allowed or is only allowed in limited circumstances that are clearly defined by law ● 0.5: The law provides exceptions that may be vulnerable to misuse ● 0: The law does not address this aspect or provides highly ambiguous reasons based on which sole-sourced contracting is possible ○ - : Not applicable or no data available

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	16.3	
Indicator question(s)	Does the legal framework require that information on public procurement above certain thresholds be published?	
Scoring	● 1: The legal framework requires tender announcements and contract award information to be released and procurement contracts to be published in full text (above certain thresholds, possibly with partial redactions) ● 0.5: The legal framework requires tender announcements and contract award information (including information on the procuring entity, the supplier, the number of bidders, the good/ service procured and the value of the contract) to be released ● 0: Less information than described above has to be published ○ - : Not applicable or no data available	
Response	The National Procurement Authority website includes information on government procurement contracts (name of entity, date, amount), but they do not publish the full text of contracts. ²⁴⁷	

DIMENSION		IMPLEMENTATION AND COMPLIANCE
Indicator number	16.5	
Indicator question(s)	What are the threshold values set by law (or a decree), above which competitive bidding procedures through open tenders are required?	
Indicator number	16.6	
Indicator question(s)	Which information and documents related to public procurement and other relevant government contracts (such as privatisations, licences etc.) are published proactively and are available in full text? Are any of these documents published online through a central website or database?	
Response	The NPA website includes information on government procurement contracts (name of entity, date, amount), but they do not publish the full text of contracts.²⁴⁸ NPA is working to establish an e-procurement system in the country. It has conducted two workshops on e-procurement with its staffs and civil society representatives, in December 2016 and in January 2017.²⁴⁹ NPA has blacklisted a total of 107 companies, of which 107 are national and three are international (one Spanish and two Turkish companies), for providing fake documents.²⁵⁰	

Target 16.10: Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements

Indicator 16.10.1:	Number of verified cases of killing, kidnapping, enforced disappearance, arbitrary detention and torture of journalists, associated media personnel, trade unionists and human rights advocates in the previous 12 months
Indicator 16.10.2:	Number of countries that adopt and implement constitutional, statutory and/or policy guarantees for public access to information

17. PROTECTION OF FUNDAMENTAL FREEDOMS

DIMENSION	THIRD-PARTY ASSESSMENT
Indicator number	17.1
Indicator question(s)	What is the country's score and rating in Freedom House's Freedom in the World Rating (https://freedomhouse.org/report-types/freedom-world)?
Response	In 2016 Afghanistan scored 24 in Freedom House's Freedom in the World Rating. This low ranking places Afghanistan in the category of 'not free'. ²⁵²
Indicator number	17.2
Indicator question(s)	What is the country's rank and score in the most recent World Press Freedom Index, issued by Reporters Without Borders (https://rsf.org/en/ranking)?
Response	In 2016 Afghanistan scored 39.46 in the World Freedom Index, ranking it 120 out of 180 countries. The Afghan media is ranked high compared with other countries in its region, including India, in terms of freedom of information by the World Press Freedom Index. One example of progress is that Afghanistan has passed four media laws in the last decade, the last law being the most progressive.

DIMENSION IMPLEMENTATION AND COMPLIANCE	
Indicator number	17.3
Indicator question(s)	Does the legal framework contain any provisions that threaten or undermine the ability of journalists, bloggers, researchers, human rights advocates and other civil society actors to exercise their fundamental rights, to uncover and report on all forms of corruption, and to hold leaders accountable?
Response	Generally, the legal framework does not create barriers for journalists, bloggers, researchers, human rights advocates and other civil society actors to exercise their fundamental rights. However, in practice, actions by some government officials undermine the ability of these actors to uncover and report on corruption and hold the leaders accountable. Article 15 of the Access to Information (ATI) Law states a number of exceptions to the right to access information. Although these exceptions are drafted largely in line with international standards (See Section 18 “Access to Information” of this report), in practice some are used by government officials to restrict access to information. For example, the most common reason provided for not providing access to information is “national security”, which is vaguely defined in the ATI Law and inconsistently applied. Journalists and MPs have noted that this exception has been used to justify refusing ATI requests and makes it very difficult and complicated for them to access to information.²⁵³ Article 45 of the Mass Media Law allows the government and individuals to easily file complaints against journalists. Article 45 prohibits the broadcast and publication of material that is against Islam, defamatory to an individual, or harmful to public security and well-being, among others.²⁵⁴ These provisions are at best ambiguous and are open to abuse by the government and non-governmental organisations, leading to reduced access to information by journalists and other citizens seeking information.

DIMENSION	IMPLEMENTATION AND COMPLIANCE
Indicator number	17.5
Indicator question(s)	Have there been documented cases of killings, kidnappings, enforced disappearances, arbitrary detentions, torture or attacks against journalists, associated media personnel, trade unionists, human rights and civil society advocates or other people who have investigated, uncovered and advocated against corruption in the previous two years?
Response	According to Afghan Journalists Safety Committee and NAI (a media freedom watchdog), 2016 was considered the bloodiest year ever for journalists in Afghanistan. The Committee has recorded 101 cases involving killing, assault, intimidation, abuse and wounding of journalists, by both state and non-state actors.²⁵⁵ Thirteen journalists were killed and 88 other incidents of violence against journalists took place over the year.²⁵⁶ Amnesty International also reported that activists in several provinces outside Kabul said they were increasingly reluctant to stage demonstrations, fearing reprisals by government officials.²⁵⁷ According to Amnesty International, freedom of expression, which was strengthened after the fall of the Taliban in 2001, has steadily eroded over recent years following a string of violent attacks, intimidation and killings of journalists.²⁵⁸ Additionally, armed groups continue to target and threaten anti-corruption fighters and human rights defenders.²⁵⁹ Women human rights defenders in particular face death threats against themselves and their families. Specific examples include: • On 10 April 2017 two Anti-Corruption Justice Centre (ACJC) employees were killed by a gunman while travelling to their office in Kabul.²⁶⁰ • In early 2016, a prominent human rights defender received a death threat via Facebook from the Taliban against himself and nine others. After the 10 activists approached the authorities about the threat, the intelligence agency National Directorate of Security arrested two people with reported links to the Taliban, but no subsequent information was provided to the human rights defenders. Threats continued against the activists, who self-censored their human rights work as a result.²⁶¹ • In August, the brother of a local women's rights activist in a southern province was kidnapped, tortured and subsequently killed by unidentified individuals. The perpetrators used the man's phone to intimidate the activist and her family, threatening her with fatal repercussions if she did not cease her human rights work. No one had been arrested for the kidnapping and killing by the end of the year.²⁶² • On 20 January, a suicide attack on a shuttle bus carrying staff working for Moby Group, the owner of the country's largest private TV station Tolo TV, killed seven media workers and injured 27 people. The Taliban, which had previously threatened Tolo TV, claimed responsibility.²⁶³ • On 29 January, Zubair Khaksar, a well-known journalist working for Afghan national TV in Nangarhar province, was killed by unidentified armed men while travelling from Jalalabad city to Surkhrood district.²⁶⁴ • On 19 April, police in Kabul beat two staff media workers of Ariana TV while they were carrying out their reporting duties.²⁶⁵

DIMENSION	IMPLEMENTATION AND COMPLIANCE
Indicator number	17.6
Indicator question(s)	Have there been cases of attacks against non-governmental organisations, journalists, and others advocating or reporting on corruption that were adequately investigated and resolved in the past two years? Were perpetrators identified and held accountable?
Response	See response to 17.5.

18. ACCESS TO INFORMATION

DIMENSION	LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	18.1
Indicator question(s)	Does the legal framework (including jurisprudence) recognise a fundamental right of access to information?
Scoring	● 1: There is a full constitutional recognition of a public right of access to information ● 0.5: There is a limited constitutional right ● 0: There is no constitutional right to information ○ - : Not applicable or no data available
Response	The ATI Law ²⁶⁷ is based on Article 50.3 of the Constitution of Afghanistan, which states that “The citizens of Afghanistan shall have the right of access to information from state departments in accordance with the provisions of the law. This right shall have no limit except when harming rights of others as well as public security.” ²⁶⁸
Indicator number	18.2
Indicator question(s)	Does the right of access to information apply to all materials held by or on behalf of public authorities in any format, regardless of who produced it?
Scoring	● 1: The right applies to all materials held by or on behalf of public authorities, with no exceptions ● 0.5: There right applies to materials held by or on behalf of public authorities, but there are exceptions for “internal documents” or databases ● 0: The definition of information is very limited and includes several and/or broad exceptions of information that is not covered by the right ○ - : Not applicable or no data available
Response	The ATI Law applies to all types of materials held and produced by public institutions. Article 3.1 defines information as “any type of documents, recorded and registered information, model or sample”. Article 8.1 requires public institutions, upon request, to provide access to information in one of the following forms 1- a copy of the original document 2- a written note from the original document 3- a copy of the original document in a written, audio or video form 4- information in audio or video form 5- a sample

DIMENSION LEGISLATIVE AND INSTITUTIONAL FRAMEWORK	
Indicator number	18.3
Indicator question(s)	To which branches and bodies does the right of access apply?
Scoring	● 1: The right of access applies, with no bodies excluded, to 1) the executive branch; 2) the legislature; 3) the judicial branch; 4) state-owned enterprises; 5) other public authorities, including constitutional, statutory and oversight bodies (such as an election commission or an information commission); and 6) private bodies that perform a public function or that receive significant public funding ● 0.75: The right of access applies to at least five of the above-mentioned sectors, with no particular bodies excluded ● 0.5: The right of access applies to at least four of the above-mentioned sectors, but some bodies are exempt ● 0.25: The right of access applies to at least three of the above-mentioned sectors or several key bodies are exempt (such as the secret services, military, police, president etc.) ● 0: There is no access to information framework; or there is no clear provision on the institutions that are covered; or the right of access applies to less than three of the above-mentioned sectors and several key bodies are exempt (such as secret services, military, police, president etc.) ○ - : Not applicable or no data available
Response	The ATI Law applies to all public institutions. ²⁶⁹ Article 3 (6) defines “institutions” to “Include ministries, general independent directorates, independent state commissions, executive, Judicial and national assembly Institutions, local administrations, provincial, districts, villages and municipalities councils, boards of municipalities, enterprise, government corporations, joint ventures and all other Institutions.”
Indicator number	18.4
Indicator question(s)	Are there clear and reasonable maximum timelines for responding to a request, regardless of the manner of satisfying the request?
Scoring	● 1: Timeframe is 10 working days (or 15 days, or two weeks) or less ● 0.5: Timeframe is 20 working days (or 30 days, four weeks or one month) or less ● 0.25: Timeframe is more than 20 working days (or 30 days, four weeks or one month) ● 0: There is no specified timeframe for responding to a request ○ - : Not applicable or no data available
Response	Article 6 of the ATI Law specifies that institutions are required to provide the requested information within the following timeframes:²⁷⁰ • general requests: 10 working days starting from the date of submission (with possibility of extension by three working days “in case of justifiable reasons”) • media outlets: three working days • requests concerning “information necessary to immunity of persons and safety or freedom of persons”: 24 hours However, in practice these timelines are not followed by public institutions. This has been acknowledged by the Oversight Commission on Access to Information.²⁷¹

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	18.5	
Indicator question(s)	Are exceptions to the right of access consistent with international standards?	
Scoring	● 9 or 10 ● 7 or 8 ● 5 or 6 ● 3 or 4 ● 0, 1 or 2 ○ - : Not applicable or no data available	
Response	Article 15 of the ATI Law states a number of exceptions, which are largely in line with international standards.²⁷² However, in practice these exceptions are used by government officials to restrict access to information. The most common reason provided for not providing access to information is “national security”, which is vaguely defined and inconsistently applied. Journalists and MPs have noted that this exception has been used to justify refusing access to information requests and makes it very difficult and complicated for them to access to information.²⁷³	
Indicator number	18.6	
Indicator question(s)	Is a harm test applied to all exceptions, so that disclosure may only be refused when it poses a risk of actual harm to a protected interest?	
Scoring	● 1: Harm test is applied to all exceptions ● 0.75: Harm test is applied to all but one exception ● 0.5: Harm test is applied to all but two exceptions ● 0.25: Harm test is applied to all but three exceptions ● 0: No harm test is required by law, or it does not apply to four or more exceptions ○ - : Not applicable or no data available	
Response	The ATI Law specifies that the harm test should be applied to all exceptions, except for the exception regarding business issues, private property and banking accounts, unless otherwise specified in laws.²⁷⁴ However, as noted above, in practice these exceptions are used by government officials to restrict access to information (see section 18.5) and the harm test is inconsistently applied when determining whether an access to information request should be refused.	

DIMENSION		LEGISLATIVE AND INSTITUTIONAL FRAMEWORK	
Indicator number		18.7	
Indicator question(s)		Is there a mandatory public interest override so that information must be disclosed where this is in the overall public interest, even if this may harm a protected interest? Are there “hard” overrides (which apply absolutely) – for example for information about human rights, corruption or crimes against humanity?	
Scoring		● 1: There is a mandatory public interest override that applies to all exceptions and is not subject to overreaching limitations ● 0.75: There is a mandatory public interest override that applies to all exceptions but one or two and is not subject to overreaching limitations ● 0.25: The public interest test only applies to some exceptions ● 0: No public interest test is required by law ○ - : Not applicable or no data available	
Response		This is not enshrined clearly in the law. Also, as noted above, in practice exceptions to the right to access information are used by government officials to restrict access to information (see section 18.5), particularly in cases regarding national security. It is unlikely that overall public interest would be prioritised in these cases.	
Indicator number		18.8	
Indicator question(s)		Is there an independent information commission, or a similar oversight body, with whom requestors have the right to lodge an external appeal?	
Scoring		● 1: An information commission is in place, and it has the necessary mandate and power to perform its functions, including to review classified documents and inspect the premises of public bodies ● 0.5: An information commission or a similar oversight body exists, but it either lacks the power to review classified documents or lacks inspection powers ● 0.25: An information commission or a similar oversight body exists, but it has the power neither to review classified documents nor to carry out inspections ● 0: No independent oversight body exists ○ - : Not applicable or no data available	
Response		Yes, Article 16 of ATI Law²⁷⁵ establishes an Oversight Commission on Access to Information, comprised of state and non-state representatives appointed for three-year terms. The Commission’s mandate includes the right to receive access to information applications and to hear access to information complaints (Article 25). Since its establishment in 2015, it has developed certain guidelines, procedures and other necessary documents.	

DIMENSION	LEGISLATIVE AND INSTITUTIONAL FRAMEWORK
Indicator number	*18.9
Indicator question(s)	* Does the law/policy on access to information contain minimum standards on mandatory proactive (automatic, without having to be requested) publication of information?
Scoring	● 1: The law on access to information (or another relevant law) contains requirements on the mandatory automatic publication of certain information ● 0: There are no requirements to automatically release certain information ○ - : Not applicable or no data available
Response	According to Article 14 of ATI Law²⁷⁶, institutions under its jurisdiction are required to publish the following information at least once a year: 1- organisational structure, duties and authorities of the institution and its related performance reports 2- financial status of the institution 3- details of direct services provided to the public 4- procedure for addressing public information requests and public complaints 5- related legislative documents 6- related bills, procedures and guidelines 7- related internal and international contracts, protocols and memorandums 8- related policies, strategies and work plans 9- all other specific institutional matters

DIMENSION	THIRD-PARTY ASSESSMENT
Indicator number	18.10
Indicator question(s)	What is the country's score in the Global Right To Information Rating (www.rti-rating.org/view_country/)?
Response	Afghanistan scored 77 in the Global Right to Information Rating in 2015. ²⁷⁶

DIMENSION	IMPLEMENTATION AND COMPLIANCE
Indicator number	*18.11
Indicator question(s)	* What are the shortcomings of the access to information regime?
Response	The main issue with the access to information regime in Afghanistan is that in practice the ATI Law is inconsistently applied and often not followed by institutions. In practice, information is often accessed through personal connections, rather than through applying the procedures set out in the ATI Law.²⁷⁸ According to the Oversight Commission on Access to Information, a number of government institutions are not implementing the ATI Law, including the Administrative Office of the President, the Ministry of Information and Culture, the Lower House of Parliament and the Independent Administrative Reforms and Civil Service Commission.²⁷⁹ Additionally, the ATI Law includes some shortcomings, including that it does not grant everyone access to information, only Afghan citizens (including legal entities that operate under Afghan law), – in other words, not non-citizens.

DIMENSION IMPLEMENTATION AND COMPLIANCE	
Indicator number	*18.12
Indicator question(s)	* Are there any factors that, in practice, make it unnecessarily burdensome and difficult to request or gain access to information?
Response	As noted above in 18.12, a major problem is that in practice the ATI Law is inconsistently applied and often not followed by public institutions. There are many additional factors which have made the ATI regime burdensome in practice. These include: • lack of necessary awareness of the ATI Law²⁸⁰ • complexity of government organisations' databases and lack of databases makes the procedure of providing information very sluggish and slow within governmental organisations and it takes much more time to provide document-based information to the requesters • complex or insufficient filing and archiving procedures • lack of up-to-date technology and lack of an online application form • fear of losing a job in a decision by the superior in case of revealing information • weak or inadequate punishment in case of violations • the absence of access to information offices in government bodies that are required to provide information²⁸¹ • the cost of lodging an access to information application (the request form costs 10 Afghan Afghanis) can be prohibitive for some requestors²⁸²
Indicator number	*18.13
Indicator question(s)	* How many requests for information were made to public authorities each year in the previous two years?
Response	There is limited data available on this. The Oversight Commission on Access to Information is aware of around 100 access to information requests²⁸³ that have been finalised; however, the total number is likely to be much higher as not all access to information requests are brought to the attention of the Commission. Under the ATI Law, public institutions are required to report annually to the Commission on the number of requests they receive. However, the Commission has not received these reports since its establishment in 2015. The Commission is encouraging government institutions to establish access to information offices within their structures, which should lead to improved data and transparency in the receipt and management of access to information requests. The Afghans' Access to Information Survey 2017 conducted by Integrity Watch Afghanistan shows that eight out of 10 people did not ask for information in the last year. This is mainly due to lack of awareness about the ATI Law.²⁸⁴

DIMENSION	IMPLEMENTATION AND COMPLIANCE
Indicator number	18.14
Indicator question(s)	Have there been any developments in the past two years that suggest an improvement or deterioration in the framework for public access to information and/or its implementation?
Response	In late 2014, the ATI Law was passed²⁸⁵, which included establishing the Oversight Commission on Access to Information. However, the Commission did not have any budget to carry out its activities during the first two years of its existence (2015–16),²⁸⁶ which has caused delays in the Commission commencing its work and fulfilling its mandate. This has also undermined its reputation as an effective institution. The Commission has had the following achievements over 2015–16, despite the many hurdles and challenges it has faced:²⁸⁷ • Nearly 72 public bodies introduced their public information officers to the Commission as some of them have also established a separate office for them. • Many other stakeholders – such as, but not limited to, mass media and civil society – have been engaged in promoting a culture of access to information within Afghanistan. • A couple of strategic discussions on amending the ATI Law suggested by many relevant stakeholders. • Internal policies and regulations have been designed and developed within numerous public institutions. • Nearly 60 workshops, awareness-raising programmes, press conferences and training around 2,606 individuals (1,876 males and 730 females). • Many strategic sessions on betterment of law have been organised. The ATI Law is also under review and the structure of the Commission will change under this law.²⁸⁸ The Afghanistan National Strategy for Combatting Corruption mandates the Ministry of Justice to amend the ATI Law to meet international best practices and to strengthen the recently established Oversight Commission on Access to Information by December 2017.²⁸⁹

19. OPEN GOVERNMENT DATA (OPTIONAL)

DIMENSION		THIRD-PARTY ASSESSMENT
Indicator number	19.1	
Indicator question(s)	What is the country's rank and score in the most recent edition of the Open Data Barometer, produced by the World Wide Web Foundation (http://opendatabarometer.org/data-explorer)?	
Response	Afghanistan is not included in the Barometer.	
Indicator number	19.2	
Indicator question(s)	What is the country's score in the most recent available Open Data Index, produced by Open Knowledge International (http://index.okfn.org/place)?	
Response	Afghanistan is ranked 86 in the Open Data Index 2016.	
DIMENSION		IMPLEMENTATION AND COMPLIANCE
Indicator number	*19.3	
Indicator question(s)	* Are there noteworthy efforts or initiatives of public bodies to automatically publish information and documents online (especially in machine-readable formats and in line with open data standards) that are relevant to deterring or detecting corruption?	
Response	The government of Afghanistan, as an eligible country, submitted its letter of intent to join the Open Government Partnership in December 2016.²⁹⁰ The first coordination meeting of Afghan government officials regarding preparation of the National Action Plan on the Partnership was held on 18 June 2017.²⁹¹ The first Civil Society Consultation Workshop on the Open Government Partnership in Afghanistan was held on 12 April 2017, with representatives of over 40 civil society organisations.²⁹² NPA publishes information on its website about public procurement contracts (name of entity, date, amount); they do not publish the full text of contracts.²⁹³ The government drafted a law on electronic IDs; the Parliament approved it and the President has signed it. However, this law is not implemented. Now the Office of Electronic IDs says that electronic IDs will replace notebook IDs.²⁹⁴	
Indicator number	*19.4	
Indicator question(s)	* Are there noteworthy civil society projects or initiatives that use open government data and/or other publicly available data sources to strengthen government accountability and help deter and/or detect corruption?	
Response	No noteworthy civil society projects or initiatives exist.	

END NOTES

1. Experience from post-conflict countries shows that widespread corruption undermines the authority of the state and its institutions and provides fertile ground for criminal networks to develop and insurgents to operate. Corruption also deprives the poor and vulnerable of essential services and limits their access to justice.
2. According to 2017 Asia Foundation, *A Survey of the Afghan people*, corruption perceptions have not changed significantly over recent years. In 2017, almost all Afghans believe corruption is a problem in all areas of their lives, with 83.7 per cent saying corruption is a major problem and 13.1 per cent saying it is a minor problem. Concerns about corruption in daily life have grown consistently over the years. Available at https://asiafoundation.org/wp-content/uploads/2017/11/2017_AfghanSurvey_report.pdf
Additionally, according to this survey, Afghans report giving the largest bribes on average to the judiciary/courts (US\$347), followed by when applying for a job (US\$172), and to the provincial governor's office (US\$133).
3. As at 23 June 2017, a draft plan had been prepared and a final plan was expected to be released in July 2017.
4. Since 2015, the Afghan government has conducted around 50 workshops, seminars, symposiums and conferences with civil society organisations, private sector actors, academia, media, youth, students and women's groups to discuss the SDGs and their implementation in Afghanistan. Additionally, the A-SDGs have drawn from some existing national policies, which also went through consultation processes involving civil society.
5. Goal 16 was discussed at the National Youth symposium on SDGs in April 2017.
6. At time of writing (23 June 2017), a draft version of the A-SDG action plan contains two indicators under Goal 16.
7. CSO/Shadow report is compiled by civil society organisations parallel to their government reporting. These reports often cover wide array of data and information that governments often reluctant to capture.
8. See section 'Key findings' for a full list, on page 8.
9. FATF is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction.
10. Commitment at the May 2016 London conference,
11. Transparency International, *Bridging the Gaps: Enhancing the Effectiveness of Afghanistan's Anti-Corruption Agencies*, (Transparency International, April 2017).
12. See Section 16 responses.
13. See Section 16 responses.
14. See Section 18.
15. Including the case regarding the Ministry of Education mentioned in page 24 of this report.
16. As part of its follow-up and review mechanisms, the 2030 Agenda for Sustainable Development encourages member states to "conduct regular and inclusive reviews of progress at the national and sub-national levels, which are country-led and country-driven". These national reviews are expected to serve as a basis for the regular reviews by the High-Level Political Forum. The voluntary national reviews aim to facilitate the sharing of experiences, including successes, challenges and lessons learned, with a view to accelerating the implementation of the 2030 Agenda. The reviews also seek to strengthen policies and institutions of governments and to mobilise multi-stakeholder support and partnerships for the implementation of the SDGs.
17. Please note that not all five coloured scores will be available for each question.
18. On 23 June 2017, FATF publicly announced that Afghanistan is no longer on "Grey List" and it was delisted. Source: FATF, *Improving Global AML/CFT Compliance: On-going Process*, (FATF, 23 June 2017). www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/fatf-compliance-june-2017.html
19. Commitment at the May 2016 London conference
20. London Summit on Afghanistan.
21. In Afghanistan's National Strategy for Combatting Corruption (October 2017) the government commits to advancing discussions and agreements on cross-border crime and recovery of stolen assets by June 2018. Additionally, the strategy mandates the Ministry of Justice to revise civil and criminal codes to seize illegally obtained assets by December 2017.
22. Asia Foundation, *A Survey of the Afghan People*, (Asia Foundation, 2017). Available at https://asiafoundation.org/wp-content/uploads/2017/11/2017_AfghanSurvey_report.pdf

23. A comprehensive anti-corruption law should be enacted that is in accordance with international best practice and Afghanistan's commitments under the UN Convention against Corruption.
24. Transparency International, *Bridging the Gaps: Enhancing the Effectiveness of Afghanistan's Anti-Corruption Agencies*, (Transparency International, April 2017).
25. Transparency International, *National integrity system assessment: Afghanistan 2015*, (Transparency International, 2016). Available at: www.transparency.org/whatwedo/publication/afghanistan_2015_national_integrity_system_assessment.
26. Amendment of Article 12 of the Law on Overseeing the Implementation of the Anti-Corruption Strategy (October 2016).
27. See Section 16 responses.
28. See Section 16 responses.
29. See Section 17 (press freedom).
30. Afghan Journalists Safety Committee and NAI (a media freedom watchdog). The Committee has recorded 101 cases involving killing, assault, intimidation, abuse and wounding of journalists, by both state and non-state actors. See Section 17 (press freedom).
31. See Section 18.
32. The most common reason provided for not providing access to information is for reasons of "national security", which is vaguely defined and inconsistently applied. Journalists and MPs have noted that this exception has been used to justify refusing access to information requests and makes it very difficult and complicated for them to access information.
33. See Section 19.
34. As committed to at the May 2016 London conference.
35. Indicator 16.4.1: Total value of inward and outward illicit financial flows (in current United States dollars).
36. Indicator 16.4.2: Proportion of seized, found or surrendered arms whose illicit origin or context has been traced or established by a competent authority in line with international instruments.
37. Indicator 16.5.1: Proportion of persons who had at least one contact with a public official and who paid a bribe to a public official, or were asked for a bribe by those public officials, during the previous 12 months. Indicator 16.5.2: Proportion of businesses that had at least one contact with a public official and that paid a bribe to a public official, or were asked for a bribe by those public officials during the previous 12 months. Indicator 16.10.1: Number of verified cases of killing, kidnapping, enforced disappearance, arbitrary detention and torture of journalists, associated media personnel, trade unionists and human rights advocates in the previous 12 months. Indicator 16.10.2: Number of countries that adopt and implement constitutional, statutory and/or policy guarantees for public access to information.
38. Please refer to the section on the "Rationale for this shadow report", page 7.
39. Please note that not all five coloured scores will be available for each question.
40. The report was updated in November 2017.
41. Interview 7 June 2017.
42. 26 December 2016: Seminar on SDGs held at Dunya University. More than 300 participants, including 130 women, attended presentations on the SDGs made by representatives of the Ministry of Economy, Ministry of Finance, Ministry of Foreign Affairs, Parliament and the UN Development Programme. 4–5 February 2017: Workshop organised at Kabul University by UN Development Programme and the Ministry of Economy, in association with AIESEC Afghanistan. 330 students, including 180 women, were presented with the targets and indicators for nine of the SDGs: SDG 1: No poverty; SDG 3: Good health and well-being; SDG 4: Quality education; SDG 5: Gender equality; SDG 7: Affordable and clean energy; SDG 8: Decent work and Economic Growth; SDG 11: Sustainable cities and communities; SDG 13: Climate action; SDG 16: Peace, justice and strong institutions. 19, 20 and 21 April 2017: National Youth Symposium on SDGs, Kabul – six representatives of youth from each of Afghanistan's 34 provinces were invited.
43. Interview 7 June 2017.
44. Data collection was a major obstacle encountered by government officials when preparing the A-SDGs, which led to a longer preparation time than envisaged.
45. Security considerations impede political will to attain the SDGs: 75,000 Afghans were killed or wounded in 2015 and 2016. See <https://sustainabledevelopment.un.org/memberstates/afghanistan> and www.tolonews.com/afghanistan/ghani-officially-opens-kabul-process-meeting 06 June 2017.
46. As per the cabinet decision dated 7 October 2015.
47. Ministry of Economy, SDGs, available at <http://moec.gov.af/en/page/1183/sdgs>
48. Mob: +93 707 645 790
49. The A-SDGs contain 125 national targets and 190 national indicators.
50. There are around 10 National Priority Programmes, including; 1) the Private Sector Development Programme; 2) the Citizen's Charter; 3) the Effective Governance Programme; 4) the Justice Sector Reform Programme; 5) the Comprehensive Agricultural Development Programme; 6) the Infrastructure and Connectivity Programme; 7) the Urban Development Programme; Energy; 8) the National Mineral and Resources Development Programme; 9) Human Capital Development; and 10) the Women's Economic Empowerment Programme.
51. Interview 6 June 2017.
52. The latest was in mid-May 2017, interview 1 June 2017.

53. Statement by Abdul Sattar Murad, Minister of Economy of Islamic Republic of Afghanistan, at the general debate of ministerial segment on the sustainable development of HELP, New York, 19 July 2016, <https://sustainabledevelopment.un.org/content/documents/21489afghanistan-19-july.pdf>
54. Interview, 7 June.
25 February 2017: civil society organisation coordination meeting for the infrastructure budget sector.
1 March 2017: civil society organisation coordination meeting for the economic budget sector.
1 March 2017: civil society organisation coordination meeting for the health budget sector.
55. 30 April 2017, UN Development Programme, Youth Symposium Opens up a National Dialog on the Sustainable Development Goals. www.af.undp.org/content/afghanistan/en/home/presscenter/IntheNews/YouthSymposium.html. See also, Recca, 25 April 2017, <http://recca.af/?p=2382>
56. National documents including the Citizens Charter, Women Economic Empowerment and other National Priority Programs (NPPs)
57. 30 April 2017, UN Development Programme, Youth Symposium Opens up a National Dialog on the Sustainable Development Goals, www.af.undp.org/content/afghanistan/en/home/presscenter/IntheNews/YouthSymposium.html. See also, Recca, 25 April 2017, <http://recca.af/?p=2382>
58. National Radio Television of Afghanistan, September 2017, available at <http://rta.org.af/eng/2017/09/30/high-council-on-rule-of-law-approves-national-anti-corruption-strategy/>
59. Afghanistan National Strategy for Combatting Corruption, October 2017, available at http://mof.gov.af/Content/files/AFG_AntiCorruptionStrategy_Eng_.pdf
60. Under the Afghanistan National Strategy for Combatting Corruption, October 2017, the government will consolidate all anti-corruption agencies except the Independent Joint Anti-Corruption and Evaluation Committee under the Office of the Attorney General, who will appoint a new Deputy for Anti-Corruption.
61. Transparency International's 2013 Global Corruption Barometer.
62. Integrity Watch Afghanistan, National Corruption Survey 2016. Available at <https://iwaweb.org/national-corruption-corruption-survey-2016/>
63. Asia Foundation, *A Survey of the Afghan People*, (Asia Foundation, 2017). Available at https://asiafoundation.org/wp-content/uploads/2017/11/2017_AfghanSurvey_report.pdf
64. Transparency International, *From Promises to Actions: Navigating Afghanistan's Anti-Corruption Commitments*, (Transparency International, September 2016).
65. Transparency International, *From Promises to Actions: Navigating Afghanistan's Anti-Corruption Commitments*, (Transparency International, September 2016).
66. Afghanistan Peace and Development Framework (ANPDF) 2017–2021, p. 30. Available at http://moec.gov.af/Content/files/ANPDF_English.pdf
67. Impunity; A Common Culture in Afghanistan, EU, 28 March 2017, Bakhtar News available at www.bakhtarnews.com.af/eng/politics/item/28057-impunity-a-common-culture-in-afghanistan-eu.html
68. The Guardian, *Afghanistan's corruption epidemic is wasting billions in aid*, (The Guardian, November 2016). Available at www.theguardian.com/global-development-professionals-network/2016/nov/03/afghanistans-corruption-epidemic-is-wasting-billions-in-aid
69. Interview 10 June 2017.
70. The Ottawa Citizen, *Canada 'concerned' with aid funds to Afghanistan following inquiry into alleged corruption*, (The Ottawa Citizen, 23 January 2017). Available at <http://ottawacitizen.com/news/local-news/canada-concerned-about-aid-funds-after-report-points-to-alleged-afghan-education-ministry-corruption>. According to Sediq Patman, a former Deputy Minister of Education, the leadership of the Ministry of Education exaggerated the statistics regarding the number of active students, possibly for reasons including corruption and misuse of resources. Source: ToloNews, Minister Sets Record Straight, Only Six Million In School, (ToloNews, 18 December 2016). Available at www.tolonews.com/afghanistan/education-minister-sets-record-straight-only-six-million-scho
71. ToloNews, 18 December 2016. Available at www.tolonews.com/afghanistan/education-minister-sets-record-straight-only-six-million-scho
72. Members of the delegation include: MPs Abdol Khaliq Balakarzai, Abdol Qadir Qalatwal, Humaira Ayubi and Mohammad Wali Alizai; Senator Mohammad Hanif Hanifi; civil society members Attaullah Wisa, Mohammad Salim; and representatives from the Attorney General's Office.
73. Isenberg Institute of Strategic Satire, *Afghan president assigns delegation to probe corruption allegation in ministry*, (Isenberg Institute of Strategic Satire, 17 July 2015). Available at <http://iisonline.net/afghan-president-assigns-delegation-to-probe-corruption-allegation-in-ministry/>
74. Interview 10 June 2017.
75. Interview 10 June 2017.
76. ToloNews, *Corruption Weakening Security Sector, Says Attorney General*, (ToloNews, 16 May 2017). Available at www.tolonews.com/afghanistan/corruption-weakening-security-sector-says-attorney-general
77. ToloNews, 16 May 2017.

78. According to Attorney General Mohammad Farid Hamidi. Source: Third Annual European Union Anti-Corruption Conference in Afghanistan, "Intensifying the Fight against Corruption in Afghanistan", 8 May 2017, Presidential Palace, Post Conference Report. https://eeas.europa.eu/sites/eeas/files/20170510_post_eu_anti-corruption_conferecen_report.pdf
79. ToloNews, 16 May 2017.
80. Afghanistan Peace and Development Framework (ANPDF) 2017–2021, p. 30. Available at http://moec.gov.af/Content/files/ANPDF_English.pdf p.16
81. 1TvNews, *90 percent of journalists in Afghanistan face hurdles to access information: survey*, (1TvNews, 30 May 2017). Available at <http://1tvnews.af/en/news/afghanistan/29577-90-percent-of-journalists-in-afghanistan-face-hurdles-to-access-information-survey>
82. In 2015, the government signed a memorandum of understanding with civil society organisations to define an overall partnership framework. This is yet to result in any tangible changes.
83. Transparency International, *From Promises to Actions: Navigating Afghanistan's Anti-Corruption Commitments*, (Transparency International, September 2016).
84. On 23 June 2017, FATF publicly announced that Afghanistan is no longer one the "Grey List" and has been delisted. Source: Improving Global AML/CFT Compliance: On-going Process – 23 June 2017. www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/fatf-compliance-june-2017.html
85. On 20 July 2016, the Attorney General's Office issued an order freezing the funds and assets of individuals, entities and organizations designated under UN Security Council Resolution 1267, 1988 and successor resolutions issued by the United Nations Security Council acting under Chapter VII of the United Nations Charter. Available at [http://fintraca.gov.af/assets/Freezing%20Orders/Standing%20Instruction_\(Freezing%20Order\)_English\(1\).pdf](http://fintraca.gov.af/assets/Freezing%20Orders/Standing%20Instruction_(Freezing%20Order)_English(1).pdf)
86. FATF, Improving Global AML/CFT Compliance: On-going Process – 24 February 2017. Available at www.fatf-gafi.org/countries/a-c/afghanistan/documents/fatf-compliance-february-2017.html
87. Interview, 24 June 2017.
88. Article 5 of the Law on Money Laundering and Crime Proceeds, July 2014, Official Gazette 1142 and Amendment and omission in some articles of Anti-Money Laundry and proceedings resulting from crimes, April 2015, Official Gazette 1170. Available at www.fintraca.gov.af/assets/Laws/Anti-Money%20Laundering%20and%20Proceeds%20of%20Crime%20Law.pdf
89. Article 10 of AML-PC Law (2015) – Prohibition of anonymous accounts or similar products. 1. Reporting entities shall not keep anonymous accounts, or accounts in obviously fictitious names. 2. Reporting entities shall close any accounts referred to in paragraph 1 of this article and report on it to the authorized authority.
90. Article 84 of the Legislative Decree of the President of Islamic Republic of Afghanistan on issuance of Banking Law of Afghanistan, No: 56, 26/5/1394. Banking Law approved by the Cabinet of Islamic Republic of Afghanistan under resolution number (17) dated 21/5/1394. Available at <http://dab.gov.af/Content/Media/Documents/BankingLawofAfghanistanEnglish-Translation6122015122139846553325325.pdf>
91. Article 15 – Due diligence measures for politically exposed persons.
1) Reporting entities should, in relation to politically exposed persons (whether as customer or beneficial owner), in addition to performing normal due diligence measures...
92. Law on Money Laundering and Crime Proceeds, July 2014, Official Gazette 1142 and Amendment and omission in some articles of Anti-Money Laundry and proceedings resulting from crimes, April 2015, Official Gazette 1170. Available at www.fintraca.gov.af/assets/Laws/Anti-Money%20Laundering%20and%20Proceeds%20of%20Crime%20Law.pdf
93. Article 5 of the AML-PC Law (2015).
94. Article 18 – Reporting of suspicious transactions
a) Where a reporting entity
(1) suspects or has reasonable grounds to suspect that any transaction or attempted transaction involves or may be related the proceeds of crime or be used for money laundering or terrorism financing or predicate offences;
(2) suspects or has reasonable grounds to suspect that funds are linked or related to a terrorist(s) or are to be used for terrorism, terrorist acts or by terrorist organizations the reporting entity, as soon as practicable, but no later than three days after forming the suspicion, shall report the transaction or attempted transaction to the Financial Intelligence Unit.
2) The reports required of reporting entities under this Law shall be sent to the Financial Intelligence Unit in a form and methods as may be determined in relevant regulations on forms of communications.
3) Reporting entities shall be required to report a suspicious transaction carried out even if it became clear only after completion of a transaction that there were grounds for suspicion.
4) After having submitted a suspicious transaction report under this Law, reporting entities shall also be required to submit without delay any additional information that might confirm or invalidate the suspicion.
5) Reporting entities, their directors and employees are prohibited from disclosing to a customer or any other person the fact that a report under this Article has been made or any information has been submitted to FIU or competent authority in relation to any money laundering or terrorism financing investigation. This shall not preclude disclosures or communications between and among directors and employees of the financial institution or designated non-financial business and profession, in addition to lawyers, competent authorities, and the law enforcement agencies.
In accordance to article 17 of AML law, the reporting entities should report suspicious transactions report to FinTRACA.

95. FinTRACA, Reporting Suspicious Transactions Reports. Available at www.fintraca.gov.af/STR.html
96. Law on Money Laundering and Crime Proceeds, July 2014, Official Gazette 1142 and Amendment and omission in some articles of Anti-Money Laundry and proceedings resulting from crimes, April 2015, Official Gazette 1170. Available at www.fintraca.gov.af/assets/Laws/Anti-Money%20Laundering%20and%20Proceeds%20of%20Crime%20Law.pdf
97. Article 15 – Due diligence measures for politically exposed persons
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98. Article 18 – Reporting of suspicious transactions
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In accordance with Article 17 of the AML law, the reporting entities should report suspicious transactions report to FinTRACA.
99. Law on Money Laundering and Crime Proceeds, July 2014, Official Gazette 1142 and Amendment and omission in some articles of Anti-Money Laundry and proceedings resulting from crimes, April 2015, Official Gazette 1170. Available at www.fintraca.gov.af/assets/Laws/Anti-Money%20Laundering%20and%20Proceeds%20of%20Crime%20Law.pdf
100. Article 3 of the AML-PC Law defines the “beneficial owner” as “the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement.”
101. AML/CFT Preventative Measures Regulation. Available at (<http://fintraca.gov.af/Regulations.html>)
102. Law on Money Laundering and Crime Proceeds, July 2014, Official Gazette 1142 and Amendment and omission in some articles of Anti-Money Laundry and proceedings resulting from crimes, April 2015, Official Gazette 1170. Available at www.fintraca.gov.af/assets/Laws/Anti-Money%20Laundering%20and%20Proceeds%20of%20Crime%20Law.pdf
103. Law on Money Laundering and Crime Proceeds, July 2014, Official Gazette 1142 and Amendment and omission in some articles of Anti-Money Laundry and proceedings resulting from crimes, April 2015, Official Gazette 1170. Available at www.fintraca.gov.af/assets/Laws/Anti-Money%20Laundering%20and%20Proceeds%20of%20Crime%20Law.pdf
Article 31 – Relationships with foreign counterparts
1) The Financial Intelligence Unit may, spontaneously or on request, share information with any counterpart agency that performs similar functions and is subject to similar secrecy obligations with respect to the information it receives based upon reciprocity or mutual agreement.
2) Upon receipt of a request for information or transmission from a foreign financial intelligence unit or other foreign competent authorities regarding a report of a suspicious transaction, the Financial Intelligence Unit shall respond to that request in an expeditious manner.
3) Prior to forwarding information to foreign competent authorities the Financial Intelligence Unit shall obtain assurances that such information will be protected by the same confidentiality provisions as apply to similar information from domestic sources obtained by the foreign financial intelligence unit or other foreign competent authorities and that the foreign authority shall use the data solely for the purposes stipulated by this Law.”
104. 14 countries in total. Seizure and confiscation are not included in these memorandums of understanding. Source, FinTRACA, *International MOUs*. Available at <http://fintraca.gov.af/InternationalMOUs.html>
105. Egmont Group, *List of Members*. Available at www.egmontgroup.org/en/membership/list?field_region_value=asia_pacific
106. Egmont Group, *List of Members*. Available at www.egmontgroup.org/en/membership/list?field_region_value=asia_pacific
107. Basel AML Index 2016 Report, Basel Institute on Governance, 27 July 2016. Available at <https://index.baselgovernance.org/ranking>
108. Global Financial Integrity. Available at www.gfintegrity.org/issues/data-by-country

109. UNAMA, *Afghanistan's Fight Against Corruption, The Other Battle Field*, (UNAMA, April 2017). Available at https://unama.unmissions.org/sites/default/files/afghanistans_fight_against_corruption_-_the_other_battlefield_-_april_2017-english.pdf
110. Interview 12 July 2017.
111. FinTRACA, Case Study. Available at <http://fintraca.gov.af/assets/Cases/Case%20Study2.pdf>. Also, see Salam Watandar News, 15 February 2017, available at <http://salamwatandar.com/english/article.aspx?a=29780>. See also, UN, General Assembly Seventy-first session, Agenda item 36, The situation in Afghanistan, 3 March 2017, <https://unama.unmissions.org/sites/default/files/n1705111.pdf>
112. UN Office on Drugs and Crime, *Corruption in Afghanistan, Recent Patterns and Trends, 2012* (UN Office on Drugs and Crime, 2012). Available at www.unodc.org/documents/frontpage/Corruption_in_Afghanistan_FINAL.pdf (According to the UN Office on Drugs and Crime 2017 Survey, opium production in Afghanistan has jumped a by a staggering 87 per cent in the past year – from an estimated 2016 level of 4,800 tons to about 9,000 in 2017. Available at www.unodc.org/documents/crop-monitoring/Afghanistan/Afghan_opium_survey_2017_cult_prod_web.pdf)
113. FinTRACA, *Cooperation with Domestic Law Enforcement Agencies*. Available at <http://fintraca.gov.af/DomesticRequest.html>
114. FinTRACA, *Disseminations to Law Enforcement Agencies and Attorney General's Office*. Available at <http://fintraca.gov.af/Disseminations.html>
115. FinTRACA, *Powers to Enforce Compliance*. Available at <http://fintraca.gov.af/Enforcement.html>
116. FinTRACA, *Revoked MSPs*. Accessed 15 June 2017. Available at <http://fintraca.gov.af/MSPs/MSPslistRevoked.pdf>
117. On 20 July 2016, the Attorney General's Office issued an order for the freezing of funds and assets of individuals, entities and organizations designated under UN Security Council Resolution 1267, 1988, and successor resolutions issued by the United Nations Security Council acting under Chapter VII of the United Nations Charter. Available at [http://fintraca.gov.af/assets/Freezing%20Orders/Standing%20Instruction_\(Freezing%20Order\)_English\(1\).pdf](http://fintraca.gov.af/assets/Freezing%20Orders/Standing%20Instruction_(Freezing%20Order)_English(1).pdf)
118. FATF, *Improving Global AML/CFT Compliance: On-going Process* – 24 February 2017. Available at www.fatf-gafi.org/countries/a-c/afghanistan/documents/fatf-compliance-february-2017.html
119. IMF Country Report No. 17/144, June 2017. p. 17. Available at [/www.imf.org/en/Publications/CR/Issues/2017/06/05/Islamic-Republic-of-Afghanistan-First-Review-Under-the-Extended-Credit-Facility-Arrangement-44968](http://www.imf.org/en/Publications/CR/Issues/2017/06/05/Islamic-Republic-of-Afghanistan-First-Review-Under-the-Extended-Credit-Facility-Arrangement-44968)
120. FATF Recommendation Three regards identifying, tracing and freezing of the funds and properties of sanctioned designations; the inception of large cash transaction reports from electronic money institutions; and the submission of terms of reference for the new technology platform (goAML).
121. However, despite these developments, there has been limited improvement in actively investigating and prosecuting many cases of money laundering. Given the large-scale illicit financial flows estimated to take place in Afghanistan (see question 3.13 above), the number of cases should be much higher.
122. Afghanistan National Strategy for Combatting Corruption, October 2017. Available at http://mof.gov.af/Content/files/AFG_AntiCorruptionStrategy_Eng_.pdf
123. Law on Money Laundering and Crime Proceeds, July 2014, Official Gazette 1142 and Amendment and omission in some articles of Anti-Money Laundry and proceedings resulting from crimes, April 2015, Official Gazette 1170. Available at www.fintraca.gov.af/assets/Laws/Anti-Money%20Laundering%20and%20Proceeds%20of%20Crime%20Law.pdf
124. National Procurement Authority, Ministry of Commerce, Afghanistan Cantal Business Registry, Integrity Watch and AEITI. Source: Interview 1 June 2017.
125. Interview 1 June 2017.
126. Law on Money Laundering and Crime Proceeds, July 2014, Official Gazette 1142 and Amendment and omission in some articles of Anti-Money Laundry and proceedings resulting from crimes, April 2015, Official Gazette 1170. Available at www.fintraca.gov.af/assets/Laws/Anti-Money%20Laundering%20and%20Proceeds%20of%20Crime%20Law.pdf, Article 15 – Due diligence measures for politically exposed persons
1) Reporting entities should, in relation to politically exposed persons (whether as customer or beneficial owner), in addition to performing normal due diligence measures...
127. Article 18 – Reporting of suspicious transactions a) Where a reporting entity
(1) suspects or has reasonable grounds to suspect that any transaction or attempted transaction involves or may be related the proceeds of crime or be used for money laundering or terrorism financing or predicate offences;
(2) suspects or has reasonable grounds to suspect that funds are linked or related to a terrorist(s) or are to be used for terrorism, terrorist acts or by terrorist organizations the reporting entity, as soon as practicable, but no later than three days after forming the suspicion, shall report the transaction or attempted transaction to the Financial Intelligence Unit.
2) The reports required of reporting entities under this Law shall be sent to the Financial Intelligence Unit in a form and methods as may be determined in relevant regulations on forms of communications.
3) Reporting entities shall be required to report a suspicious transaction carried out even if it became clear only after completion of a transaction that there were grounds for suspicion.
4) After having submitted a suspicious transaction report under this Law, reporting entities shall also be required to submit without delay any additional information that might confirm or invalidate the suspicion.
5) Reporting entities, their directors and employees are prohibited from disclosing to a customer or any

other person the fact that a report under this Article has been made or any information has been submitted to FIU or competent authority in relation to any money laundering or terrorism financing investigation. This shall not preclude disclosures or communications between and among directors and employees of the financial institution or designated non-financial business and profession, in addition to lawyers, competent authorities, and the law enforcement agencies.

In accordance to article 17 of AML law, the reporting entities should report suspicious transactions report to FinTRACA.

128. Law on Money Laundering and Crime Proceeds, July 2014, Official Gazette 1142 and Amendment and omission in some articles of Anti-Money Laundry and proceedings resulting from crimes, April 2015, Official Gazette 1170. Available at www.fintraca.gov.af/assets/Laws/Anti-Money%20Laundering%20and%20Proceeds%20of%20Crime%20Law.pdf
Article 16 – Record-keeping
1) Reporting entities should maintain all necessary records on transactions, both domestic and international attempted or executed for at least five years following the attempt or execution of the transaction.
Para (3) a supervisory authority may require reporting entities to establish and maintain according to relevant procedures a centralized database consisting of information from main offices, branches and majority owned subsidiaries on a national basis on the identity of customers, principals, beneficiaries, agents and beneficial owners, and on suspicious transactions.
1) Reporting entities should maintain records of the information in subsection (1), (2) and (3) and ensure that the records and underlying information are readily available to the financial intelligence unit and other competent authorities and be sufficient to enable reconstruction of transactions.
129. Law on Money Laundering and Crime Proceeds, July 2014, Official Gazette 1142 and Amendment and omission in some articles of Anti-Money Laundry and proceedings resulting from crimes, April 2015, Official Gazette 1170. Available at www.fintraca.gov.af/assets/Laws/Anti-Money%20Laundering%20and%20Proceeds%20of%20Crime%20Law.pdf
130. ACB. Accessed on 15 June 2017. Available at www.acbr.gov.af/registration.html.
131. Integrity Watch Afghanistan, *Curbing Illicit Financial Flows in Afghanistan, Money Laundering, Terrorist Financing, and Hawala*, (Integrity Watch Afghanistan, 2015). Accessed on 20 June 2017. Available at <https://iwaweb.org/wp-content/uploads/2016/04/IFF-report-English-2-for-screen.pdf>
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 171. Asia Foundation, *A Survey of the Afghan People, 2017* (Asia Foundation, 2017). Available at https://asiafoundation.org/wp-content/uploads/2017/11/2017_AfghanSurvey_report.pdf
 172. Asia Foundation, *A Survey of the Afghan People, 2017* (Asia Foundation, 2017). Available at http://asiafoundation.org/wp-content/uploads/2016/12/2016_Survey-of-the-Afghan-People_full-survey.Apr2017.pdf. Additionally, according to this survey Afghans report giving the largest bribes on average to the judiciary/courts (US\$347), followed by when applying for a job (US\$172), and to the provincial governor’s office (US\$133).
 173. Article 254 of the Penal Code criminalises active and passive bribery. Passive bribery is clearly defined (see 9.1.b. below); however, active bribery is not clearly defined. Furthermore, the term “briber” is not defined in the Penal Code.
 174. Article 254 of the Penal Code criminalises active and passive bribery. Passive bribery is clearly defined as “any official of public services, who for the purpose of performance of or abstention from or disruption of a duty which is assigned to him, requests in his own or someone else’s name any money, good or other benefit, or receives a promise of or accepts a gift”. Additionally, Penal Code Annex 4, Article Two extends the offence of passive bribery to include members of international organisations, international governmental organisations, non-governmental organisations, officials of foreign countries and the private sector.

175. Article 268 of the Penal Code criminalises embezzlement by “Any official of public services, to whom the goods of State or persons have been given in the line of his duty”. The penalty is “long imprisonment of not more than 10 years”. Article 268(2) imposes additional penalties for specified office-holders.
Additionally, Penal Code Annex 4, Article Three extends the offence of embezzlement to include members of international organisations, international governmental organisations, non-governmental organisations, officials of foreign countries and the private sector
176. Ministry of Justice, Penal Code, Article 255 (1) The bribe-taker shall be sentenced to an imprisonment of not less than 2 years and not more than 10 years and cash fine of equivalent of what he has requested as bribe or has been given to him or he has been promised to receive.; (2) The briber and the intermediary in bribery shall be sentenced to the same punishment mentioned in the above paragraph. Penal Code Annex 4, 1395/11/10, OG 1244, Article Nine
177. Ministry of Justice, “Code of Conduct for Civil Servants.” Official Gazette 900 (2006).
178. Penal Code Annex 4, 1395/11/10, OG 1244, Article Eight (2)
Article 8 (2) defines “illicit enrichment” as an increase by 25% or more in the actual wealth without reasonable explanation.
179. The Penal Code Annex 4, Article Two extends the offence of active bribery under Article 254 to include members of international organisations, international governmental organisations, non-governmental organisations, officials of foreign countries and the private sector.
Additionally, the Law on Monitoring and implementation of Anti-Corruption Strategy defines bribery as an act of corruption and Article 7(4) extends the law’s application to include the private sector.
180. Penal Code Annex 4, Article Three extends the offence of embezzlement under Article 268 to include members of international organisations, international governmental organisations, non-governmental, officials of foreign countries and the private sector. Additionally, the Law on Monitoring and implementation of Anti-Corruption Strategy defines embezzlement as an act of corruption and Article 7(4) extends the law’s application to include the private sector.
181. Article 3 of the AML-PC Law (2015) clearly defines money laundering as a criminal offence.
182. Articles 374 of the Penal Code criminalises actions taken by a person “who for the purpose of misleading justice changes the condition of persons, places or materials or conceals the evidence of crime, or presents wrong information about the crime while being aware of its untruthfulness”.
Additionally, Article 376 criminalises the acts of a person who “for the purpose of misleading the judicial machinery embezzles, conceals, or destroys an object or a document presented to officers of law or court”.
183. Article 374 of the Afghan Penal Code (1976) Article 374 criminalises the obstruction of justice by “person who for the purpose of misleading justice changes the condition of persons, places or materials or conceals the evidence of crime, or presents wrong information about the crime while being aware of its untruthfulness”. It is unclear whether this relates only to individuals interfering with evidence and/or the giving of testimony, or whether it also extends to individuals who induce such acts to take place. Article 339 of the Afghan Penal Code (1976) Article 374 criminalises the obstruction of justice by interfering with the criminal investigation.
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187. Under the Afghanistan National Strategy for Combatting Corruption, October 2017, the government will consolidate all anti-corruption agencies except the Independent Joint Anti-Corruption and Evaluation Committee under the Office of the Attorney General, who will appoint a new Deputy for Anti-Corruption.
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189. Afghanistan National Strategy for Combatting Corruption, October 2017. Available at http://mof.gov.af/Content/files/AFG_AntiCorruptionStrategy_Eng_.pdf
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191. Fifth HCAC meeting, 27 December 2016. See Office of the Second Vice President of the Islamic Republic of Afghanistan. Available at: www.vpo.gov.af/news/item/1569-2016-12-28-06-22-00. Accessed 5 June 2017.
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201. Ministry of Justice, "Law on the Supervision and Implementation of Anti-Corruption Strategy." Official Gazette 957 (1387 AH) [2008].
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203. Ministry of Justice, "Code of Conduct for Civil Servants." Official Gazette 900 (2006), Article 6 (2).
204. Ministry of Justice, "Code of Conduct for Civil Servants." Official Gazette 900 (2006), Article 26.
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206. Ministry of Justice, "Code of Conduct for Civil Servants." Official Gazette 900 (2006), Article 7 (5).
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209. "The wealth of the President, Vice-Presidents, Ministers, members of the Supreme Court as well as the Attorney General, shall be registered, reviewed and published prior and after their term of office an organ established by law." Source: Ministry of Justice, "Constitution of Afghanistan." Official Gazette 818, 2004. Article 154. Available at http://moj.gov.af/Content/files/OfficialGazette/0801/OG_0818.pdf
210. "Deputy Ministers, Directors, Members of National Assembly (Both Houses), Provincial and District Councils, Independent Commissions/Bodies, Ambassadors, Governors, Judges, Military and Police Officers, District Administrators, Prosecutors, High Ranking Officials (Grade 2 and above), and employees of financial, accounting, audit and procurement department of each government institution." Source: Ministry of Justice, "Law on the Supervision and Implementation of Anti-Corruption Strategy." Official Gazette 957 (1387 AH) [2008]. Article 12(2). It was amended further in October 2016 to also include all "officials working in second or higher grades", including members of the Afghan Parliament, Provincial and District Councils, security, judiciary and prosecution departments. Source: Ministry of Justice, "Law on the Supervision and Implementation of Anti-Corruption Strategy." Official Gazette 957 (1387 AH) [2008].
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214. See the Asset Registration Form of President Ghani, available at <http://anti-corruption.gov.af/Content/files/Asset%20Declaration%206-Oct-12/1%20Mohammad%20Ashraf%20Ghani.pdf>
215. The amendment extended the HOOAC's asset registration mandate to include all "officials working in second or higher grades", including members of the Afghan Parliament, Provincial and District Councils, security, judiciary and prosecution departments. The amendment also included asset verification mechanisms and sanctions for non-compliance. See Amendment of Article 12 of the Law on Overseeing the Implementation of the Anti-Corruption Strategy (October 2016) -
216. HOOAC available at <http://anti-corruption.gov.af/fa/news/200956>. Accessed 21 December 2016. Source: HOOAC interview, 21 December 2016. Additionally, HOOAC shares asset declarations with FinTRACA to cross-check declared assets with banking records. HOOAC does not seek to verify declarations relating to assets held by family members or third parties.
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219. The senior officials are: 1. First Vice-President (Dostum); 2. Minister of Defence (Habibi); 3. First-Deputy of CEO Abdullah (M. Khan) (M. Khan eventually registered his assets on 10 January 2017, <http://anti-corruption.gov.af/fa/news/210997>); 4. NDS Director (Stanekzai); 5. NDS Deputy-Directors (all); 6. ARAZI Deputy-Directors (two); 7. Deputy-Ministers of the following ministries: MRRD, 2x Mines & Petroleum; 2x Counter-Narcotics; 2x Public Goods; 8. Deputy of the President's Administration Office (Seddiqi). HOOAC available at (<http://anti-corruption.gov.af/fa/news/200956>). Accessed 21 December 2016,
220. HOOAC available at <http://anti-corruption.gov.af/fa/news/200956>. Accessed 21 December 2016. Source: HOOAC interview, 21 December 2016. Additionally, HOOAC shares asset declarations with FinTRACA to cross-check declared assets with banking records. HOOAC does not seek to verify declarations relating to assets held by family members or third parties.

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 226. President of Islamic Republic of Afghanistan, Farman No: 61 dated 27/12/1388 (2009): Article 14, Section 1. High Office of Oversight and Anti-Corruption, "Law on the Supervision and Implementation of Anti-Corruption Strategy," Official Gazette 957 (1387 AH [2008]): Article 14.
 227. For more information about the Caucus: US Agency for International Development, *Anti-Corruption on the Radar in Afghanistan*, (US Agency for International Development). Available at www.usaid.gov/sites/default/files/documents/1871/ALBA%20-%20Anti-Corruption%20on%20the%20Radar%20in%20Afghanistan.pdf
 228. Interview 10 June 2017.
 229. Interview 10 June 2017. The legal and judicial commission of the Parliament argues that there are provisions in the penal code to protect whistleblowers. The argument links to the Ministry of Justice.
 230. Ministry of Justice, "Law on Anti-Administrative Corruption Strategy", 2008: Article 14.
 231. Afghanistan National Strategy for Combatting Corruption, October 2017. Available at http://mof.gov.af/Content/files/AFG_AntiCorruptionStrategy_Eng_.pdf
 232. Interview March 2017.
 233. An examination of the HOOAC's website shows that when the Complaints and Information Inception Department receives a complaint from the public it is reviewed for relevance and sent to the review team for verification of the information provided, before deciding whether further action is necessary, including administrative action or formal investigation (see HOOAC, 2017). From January to September 2016, the HOOAC received 519 complaints, with 198 being direct complaints (38.2 per cent), followed by 107 complaints (20.6 per cent) collected in complaint boxes, 76 complaints (14.6 per cent) by telephone, 53 complaints (10.2 per cent) by email, and 85 cases (16.4 per cent) from information and documents received officially. The HOOAC completed the processing of 474 complaints (91.3 per cent) as only 45 complaints (8.7 per cent) were still being processed
- Source: HOOAC Annual Report 2016.
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 243. Ministry of Justice, "Law on Political Parties." Official Gazette 996, 2009. Available at http://moj.gov.af/Content/files/OfficialGazette/0901/OG_0996.pdf
 244. The Public Financial and Expenditures Management Law. Available at www1.worldbank.org/publicsector/pe/BudgetLaws/Afghanistan%20PFEML_Engl_final.pdf
 245. www.internationalbudget.org/budget-work-by-country/findgroup/group-data/?country=af
 246. According to International Budget Partnership in 2016, the following eight key budget documents were made public: Pre-Budget Statement, Executive's Budget Proposal, Enacted Budget, Citizens Budget, In-Year Reports, Mid-Year Review, Year-End Report and Audit Report. Source: International Budget Partnership. Available at www.internationalbudget.org/opening-budgets/open-budget-initiative/open-budget-survey/country-info/?country=af
 247. Interview March 2017.
 248. Interview March 2017.
 249. Interview March 2017.
 250. Interview March 2017.
 251. NPA website, available at www.npa.gov.af/en/contract-award-decision-announcement
 252. Freedom House, *Freedom in the World*, 2017. Available at https://freedomhouse.org/sites/default/files/FH_FIW_2017_Report_Final.pdf
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270. Ministry of Justice, "Law on Access to Information." Official Gazette 1156, 2014. Available at http://moj.gov.af/Content/files/OfficialGazette/01101/OG_01156.pdf, Article 6: "6(1) Institutions are obliged to provide the requested information to the requester maximum in a period of 10 working days starting from the date of submission of the Information Request Form. In case of justifiable reasons, this time limit may be extended to 3 more working days. (2) Institutions are obliged to provide media outlets with the requested information within 3 working days from the date of receipt of the Information Request Form. (3) Institutions are obliged to provide the requested information necessary to immunity of persons and safety or freedom of persons within 24 hours upon receiving the request form."
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284. Integrity Watch Afghanistan, *Afghans' Access to Information Survey 2017: Citizens face major hurdles in accessing information from public bodies*, (Integrity Watch Afghanistan, September 2017). Available at <https://iwaweb.org/afghans-access-to-information-survey-2017-citizens-face-major-hurdles-in-accessing-information-from-public-bodies>. (According to Integrity Watch Afghanistan, half of the population is not even aware of the existence of an access to information law in Afghanistan.)
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286. It was not until the year 1396 (2017) that the Commission received a budget.
287. Interview 8 June 2017; interview 6 July 2017.
288. Interview 6 July 2017.
289. Afghanistan National Strategy for Combatting Corruption, October 2017. Available at http://mof.gov.af/Content/files/AFG_AntiCorruptionStrategy_Eng_.pdf
290. The meeting was organised by the Monitoring, Evaluation and Audit Unit of the Administrative Office of President. Following this meeting, the secretariat of the Open Government Partnership was established within this office and has been mandated to coordinate and report on Afghan Government Open Government Partnership activities. Source: <https://iwaweb.org/open-government-partnership-next-steps-for-the-afghan-government-and-civil-society/>
291. Administrative Office of the President, 18 June 2017. Available at <http://aop.gov.af/dari/4188>
292. The purpose of the Open Government Partnership workshop was to raise the awareness of civil society actors about the Partnership initiative and process, and to facilitate discussion and proactive participation of civil society in the development of Afghanistan's commitments as part of the Partnership. Source: <http://appro-europe.net/1st-civil-society-consultation-workshop-on-open-government-partnership-ogp-in-afghanistan/>
293. Interview March 2017.
294. Mandegar Daily News Paper, 21 January 2017. <http://bit.ly/2IKv1e9>

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