



World Justice  
Project

# The Rule of Law in Afghanistan

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Key Findings from the 2016 Extended General  
Population Poll & Justice Sector Survey

2016

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# Acknowledgements

*The Rule of Law in Afghanistan: Key Findings from the 2016 Extended General Population Poll & Justice Sector Survey* was prepared by Juan Carlos Botero, Annette Coto, Alicia Evangelides, Amy Gryskiewicz, Camilo Gutiérrez Patiño, Sarah Chamness Long, Mohammad Mujeeb, Alejandro Ponce, and Nathan Treacy. Graphic design support was provided by Hunter Zachwieja.

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# About this Report

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# About this Report

Strengthening the rule of law is an important objective for citizens, governments, donors, and civil society organizations around the world. To be effective, however, strengthening the rule of law requires clarity about the fundamental features of the rule of law as well as a sound methodology for its evaluation and measurement. This report presents select findings from two World Justice Project surveys: the nationally representative General Population Poll and the Afghanistan Justice Sector Survey, both conducted in Afghanistan in July and August 2016.

The General Population Poll was conducted through face-to-face interviews in 3,550 urban and rural households distributed proportionally across the 34 provinces of Afghanistan. This poll was designed to capture data on the experiences and perceptions of ordinary people on a variety of themes related to the rule of law, including government accountability, bribery and corruption, crime, and access to justice. The Justice Sector Survey polled 3,087 people using the same methodology as the General Population Poll and was designed to capture data on Afghans' views and experiences related to dispute resolution, legal awareness, legal identity, household dynamics, and gender issues.

Overall, this report represents the voices of over 6,500 people in Afghanistan and their experiences with the rule of law in their country.

The data derived from both surveys is presented in this report as 12 thematic briefs, each one highlighting a different facet of the rule of law as it is experienced by the population in Afghanistan. These briefs touch upon issues of accountability, corruption, fundamental rights, access to information, crime, justice – criminal, civil, and informal – as well as the role of women in Afghan society. The thematic briefs are designed to call attention to Afghanistan's situation from a national perspective, while simultaneously illuminating key changes over time, comparisons to low income and South Asian peer countries, as well as the unique perspectives of various sub-populations of interest, such as women, low-income households, and respondents across the six regions of Afghanistan.

Following the 12 thematic briefs, this report also includes a summary of the most salient findings from 50 in-depth interviews (IDIs). These interviews were designed to complement the quantitative findings of the Justice Sector Survey by gathering qualitative data about Afghans' experiences and perceptions of justice in their community, the dispute resolution process, and how it affects their personal life.

# Executive Findings

- 01 Perceptions of Government Accountability:** There is a high perception of impunity in Afghanistan. There has been a slight increase in the number of respondents who believe an investigation would be opened without reaching a conclusion, and less than one in four Afghans (24%) think that a high ranking government officer publicly proven to be embezzling government funds would be prosecuted and punished. Overall perceptions of government accountability vary across Afghanistan, with the South Western region having the most positive perception of accountability (49%) and the capital having the least positive perception (9%). Compared to peer countries in South Asia, perceptions of accountability in Afghanistan are better than Pakistan (18%) and India (19%), but worse than Nepal (49%), Bangladesh (45%), and Sri Lanka (42%).
- 02 Corruption Across Institutions:** Afghans believe that a significant number of authorities are involved in corrupt practices. Judges and magistrates are viewed the most corrupt authorities by respondents (57%) and officers working in the national government are perceived to be the least corrupt (39%). Since 2013, there has been a moderate increase in perceived levels of corruption for members of Parliament, the police, and officers working in the national government.
- 03 Bribery Victimization:** Petty bribery is pervasive in Afghanistan. More than half of Afghans have paid a bribe to process a government permit (58%) and to receive assistance from the police (52%). Of all the services captured in the General Population Poll and Justice Sector Survey, Afghans pay bribes least often to obtain information held by a government agency (23%). Petty bribery varies greatly by region and by service, but on average, petty bribery is the most pervasive in the Southern and Northern regions and the least pervasive in the Southwest and in the capital.
- 04 Fundamental Freedoms:** Afghans have moderate views on their fundamental freedoms. While nearly three quarters (74%) of respondents agree or strongly agree that people can join together to draw attention to an issue or sign a petition, less than half (49%) agree or strongly agree that people are free to join any unforbidden political organization. There has been a moderate decline in Afghans' perceptions of political and media freedoms in the country. Despite these declines, Afghans' views of their freedoms are average compared to perceptions in other South Asian countries.
- 05 Information Requests:** Few Afghans are requesting information held by government agencies. Only 18% of respondents reported requesting information in the last twelve months, and of those who did, just over half (54%) received the information they requested. The most common requests are for information related to health services (18%) and emergency services (14%), and the vast majority of requests are made in person (51%) or over the phone (31%). For respondents that did not receive the information they requested (46%), the most common reason given by the government agency for not granting the request is that disclosing the information is prohibited (39%) or that it is unavailable (34%).
- 06 Crime Victimization:** Households in Afghanistan experience high rates of crime. In the past three years, 18% of households have experienced a murder, 14% an armed robbery, and 18% a burglary. There are large differences in victimization rates across the six regions of Afghanistan, with the highest murder rate reported in the Northern region (22%) and the highest burglary rate reported in the Western region (26%). Equally high armed robbery rates of 17% were reported in the Eastern, Western, and Northern regions. Meanwhile, respondents in the capital reported the lowest rates of armed robbery (2%), respondents in the Southwest reported the lowest burglary rates (4%), and the capital and Southwest reported equally low murder rates of 5%. There have been slight declines in reported rates of all three crimes since 2013.

- 07 Criminal Justice:** Corruption is deemed to be a serious and growing problem for the criminal justice system in Afghanistan. Corruption was cited as the number one problem facing both investigative services and criminal courts in Afghanistan. Since 2013, there has been a moderate increase in the percentage of respondents who believe that most or all police are involved in corrupt practices (43%). In terms of overall accountability in the criminal justice system, perceptions of the police and courts are mixed. While respondents' views on whether police are punished for violating the law and whether courts guarantee everyone a fair trial have remained more or less the same since 2013, there has been a moderate increase in the percentage of respondents who believe that police act according to the law (69%), and a moderate decrease in the percentage who believe that police respect the basic rights of suspects (46%).
- 08 Legal Awareness:** Afghans have a moderate amount of legal knowledge. Out of 10 true or false statements about legal rights, the average respondent answered 6.9 correctly. The greatest percentage of respondents were able to correctly answer questions related to women's legal rights, with between 70% and 85% responding correctly depending on the question. The smallest percentage of respondents identified the correct answer for questions related to due process and rights of the accused, with between 35% and 75% responding correctly depending on the question. Women have slightly higher levels of legal awareness as compared to men, and higher levels of educational attainment also correlated with better legal knowledge.
- 09 Dispute Resolution:** Nearly two thirds (65.3%) of Afghans experienced a dispute in the last 12 months, with family disputes, water disputes, land disputes, assault, and neighbor disputes being the five most common dispute types. Among Afghans that reported experiencing a dispute, less than half took any action to resolve their dispute. Of those that did take action, most (77%) chose to take their dispute to an informal mechanism – including a Shura, Jurga, or local leader – for resolution, with 28% citing their perceived respect and authority as the main reason for choosing this resolution mechanism. The remaining 23% that took their dispute to a formal mechanism went to a district court (11%), the police (7%), or a government office (5%), with varying reasons for selecting each of these formal mechanisms. On average, respondents that took their dispute to a Shura, Jurga, or local leader reported the most positive experience in terms of the fairness, speed, and cost of the dispute resolution process, whereas those that took their dispute to the police were the least satisfied with the process but reached a resolution most often. For those who reached a resolution, compliance rates were similar across mechanisms. Sixty-one percent of respondents reported obtaining legal aid or advice and those that did were more likely to take action by 15 percentage points.
- 10 Women in Afghan Society:** There are minor differences in men and women's views regarding the rights of women when it comes to inheritance and divorce, but the perception gap grows for questions related to women's role in the community and household dynamics. For example, 54% of female respondents agreed that women should be able to work outside of the home, whereas only 39% of men shared this view. Similarly, 53% of women agreed that a man does not have the right to hit his wife and should be stopped, while only 39% of men agreed with this statement. When asked about legal identification and literacy, 93% of male respondents reported possessing a National ID card and 53% were able to read and write. For female respondents, only 65% possess a National ID card and 26% could read and write.
- 11 Trust in Afghanistan:** Afghans have a high degree of trust in fellow citizens, with 82% reporting that they have a lot or some trust in other people living in Afghanistan. Across institutions, Afghans have the most trust in the police (60%) and the least trust in the courts (44%). Since 2013, there has been a moderate decline in respondents' reported level of trust in the police, officers working in the local government, officers working in the national government, and in the courts.
- 12 Rule of Law & Governance Priorities:** Afghans consider corruption to be the most important issue facing the country. When asked what the most important aims for Afghanistan should be over the course of the next ten years, 23% cited corruption, followed by job creation (19%) and reducing crime (18%). Afghans in different regions of the country identified similar priorities, with the exception of those residing in the Southwestern region, where 41% of respondents believed that reducing crime is the most important issue facing the country.

section

II

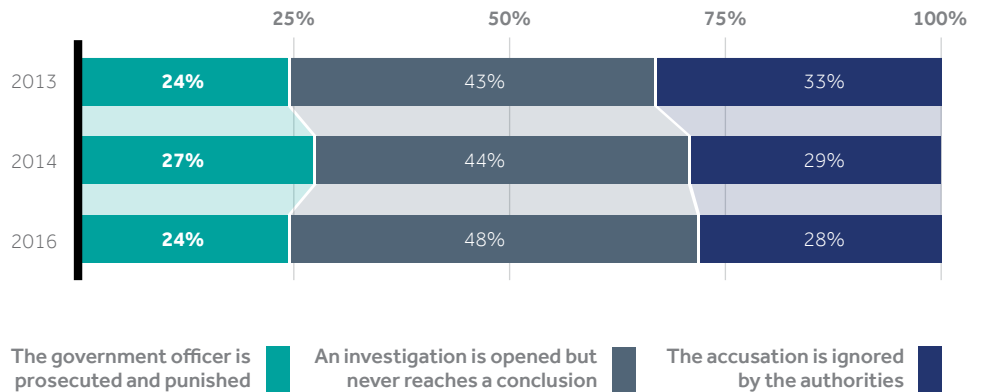
# Thematic Findings



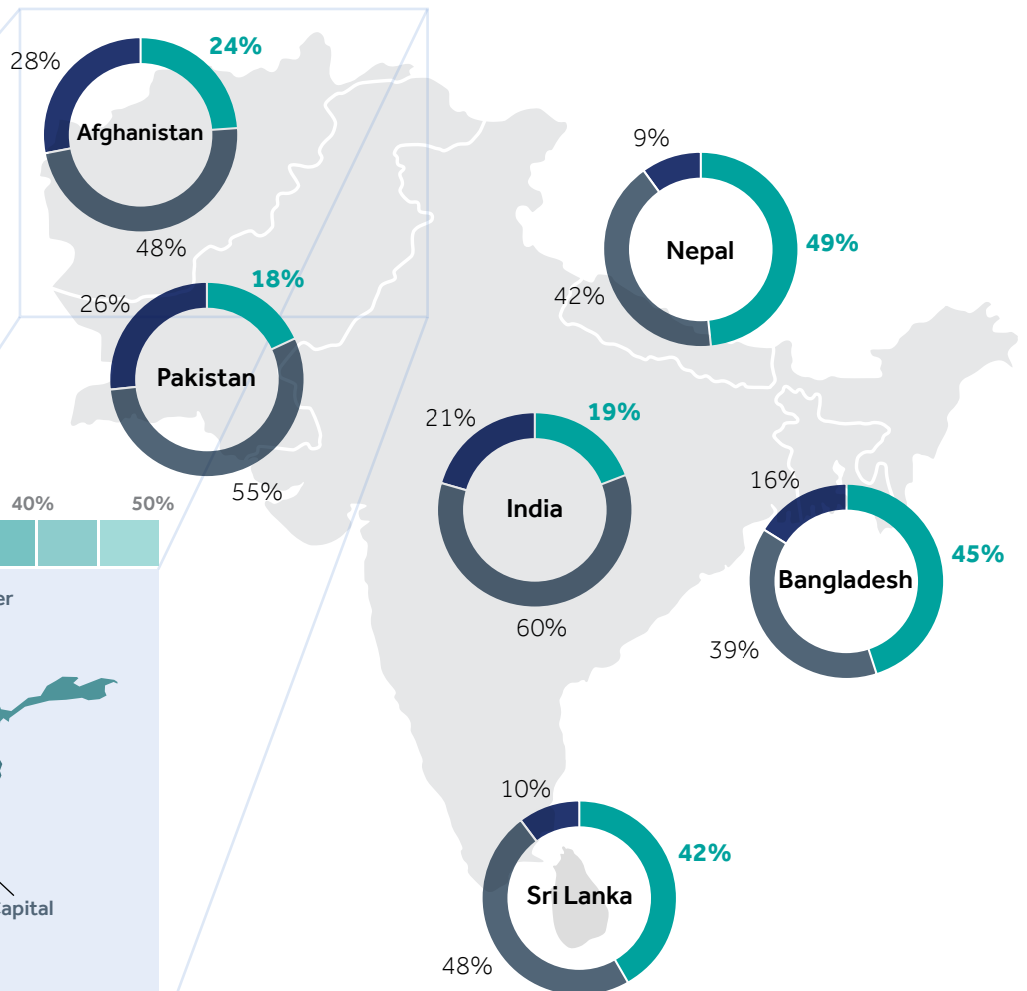
# Perceptions of Government Accountability in Afghanistan

Most likely outcome if a high-ranking government officer is caught embezzling public funds.

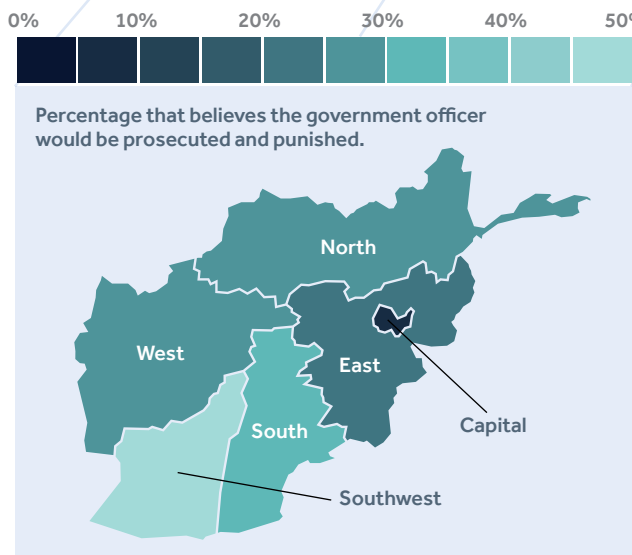
## National Perceptions



## Perceptions in South Asia



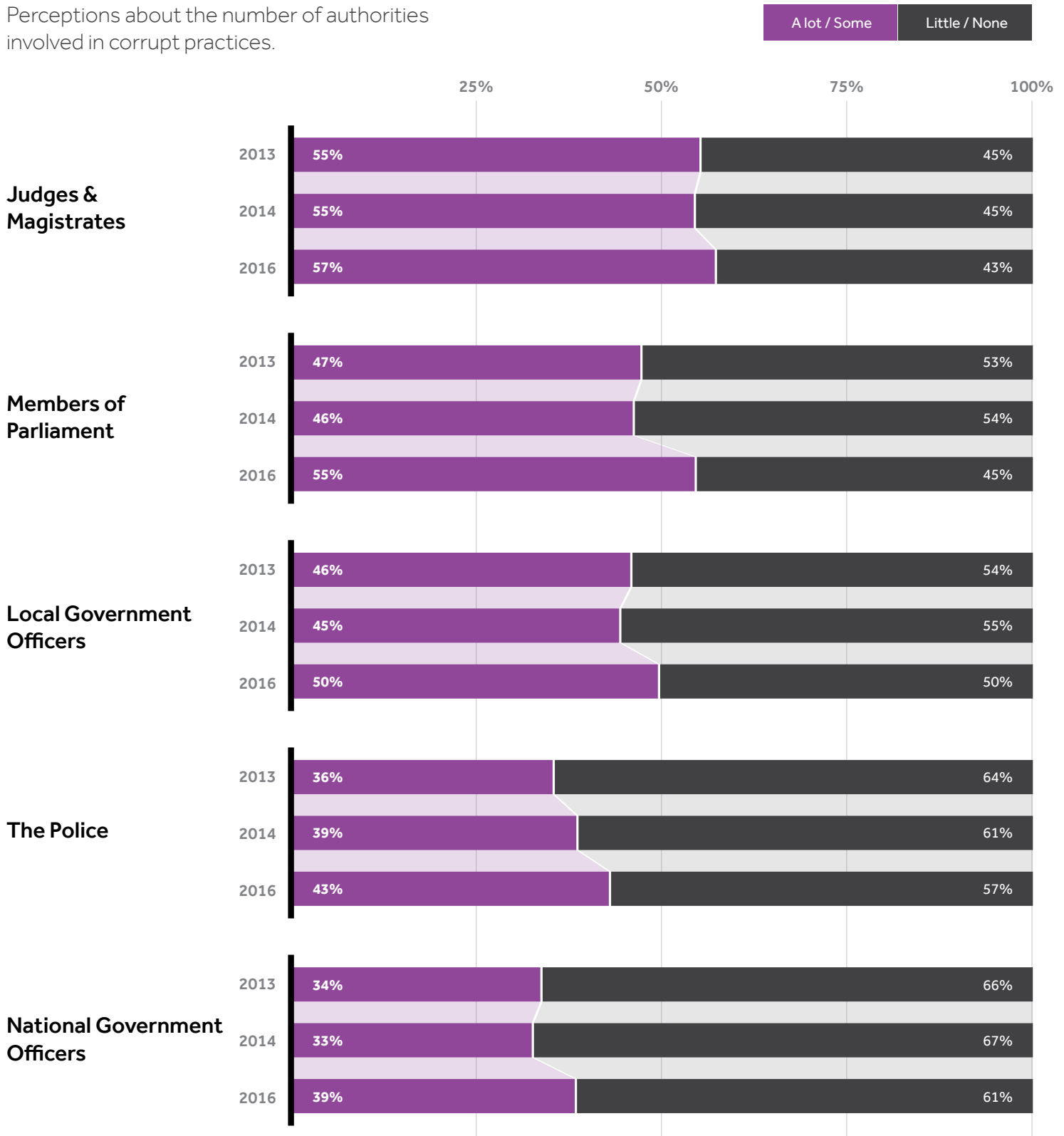
## Perceptions across Afghanistan



Source: WJP General Population Poll 2013, 2014 & 2016

# Corruption Across Institutions in Afghanistan

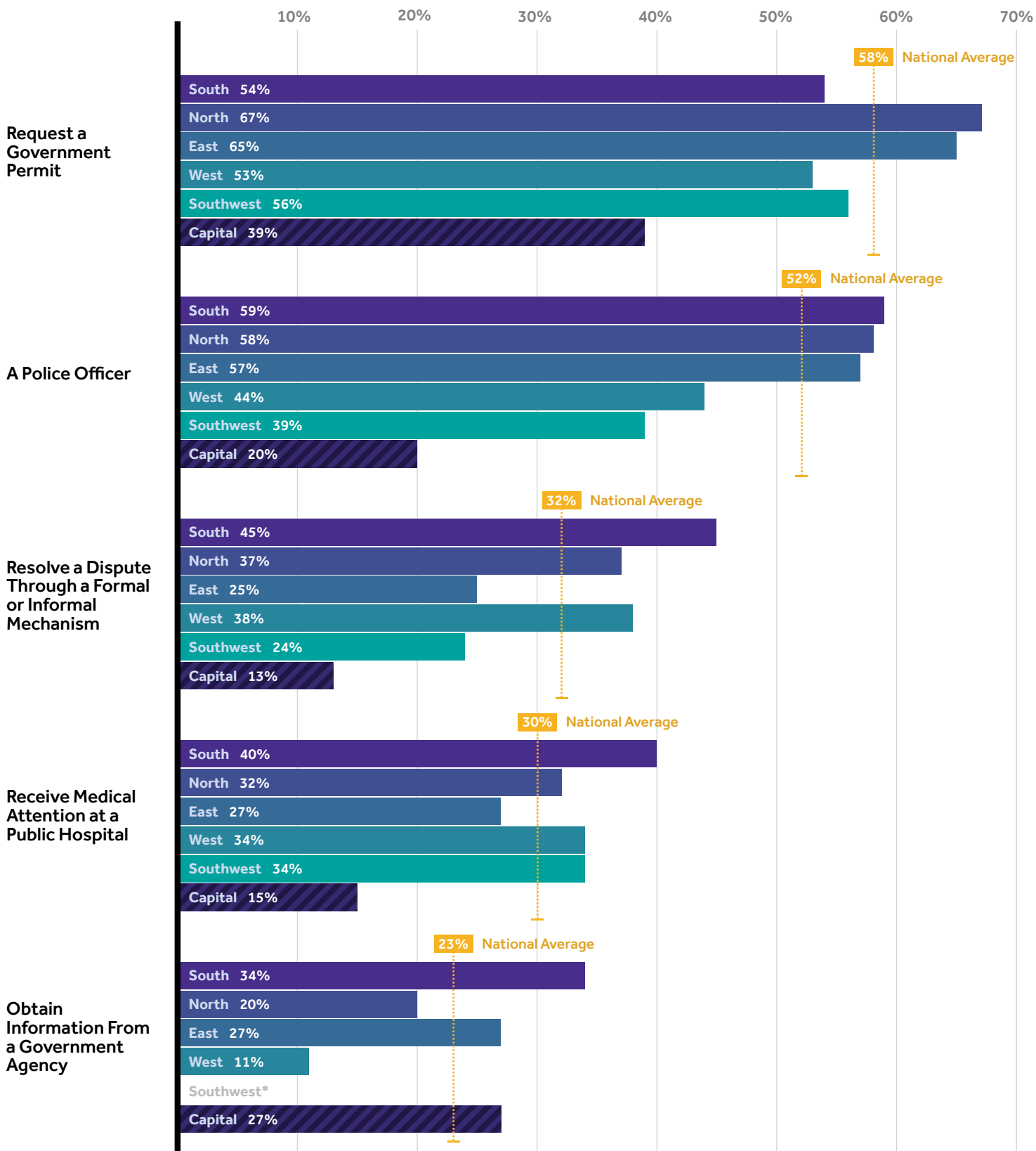
Perceptions about the number of authorities involved in corrupt practices.



Source: WJP General Population Poll 2013, 2014 & 2016

# Bribery Victimization in Afghanistan

Percentage of people who had to pay a bribe to...



Source: WJP General Population Poll 2016 and Afghanistan Justice Sector Survey 2016

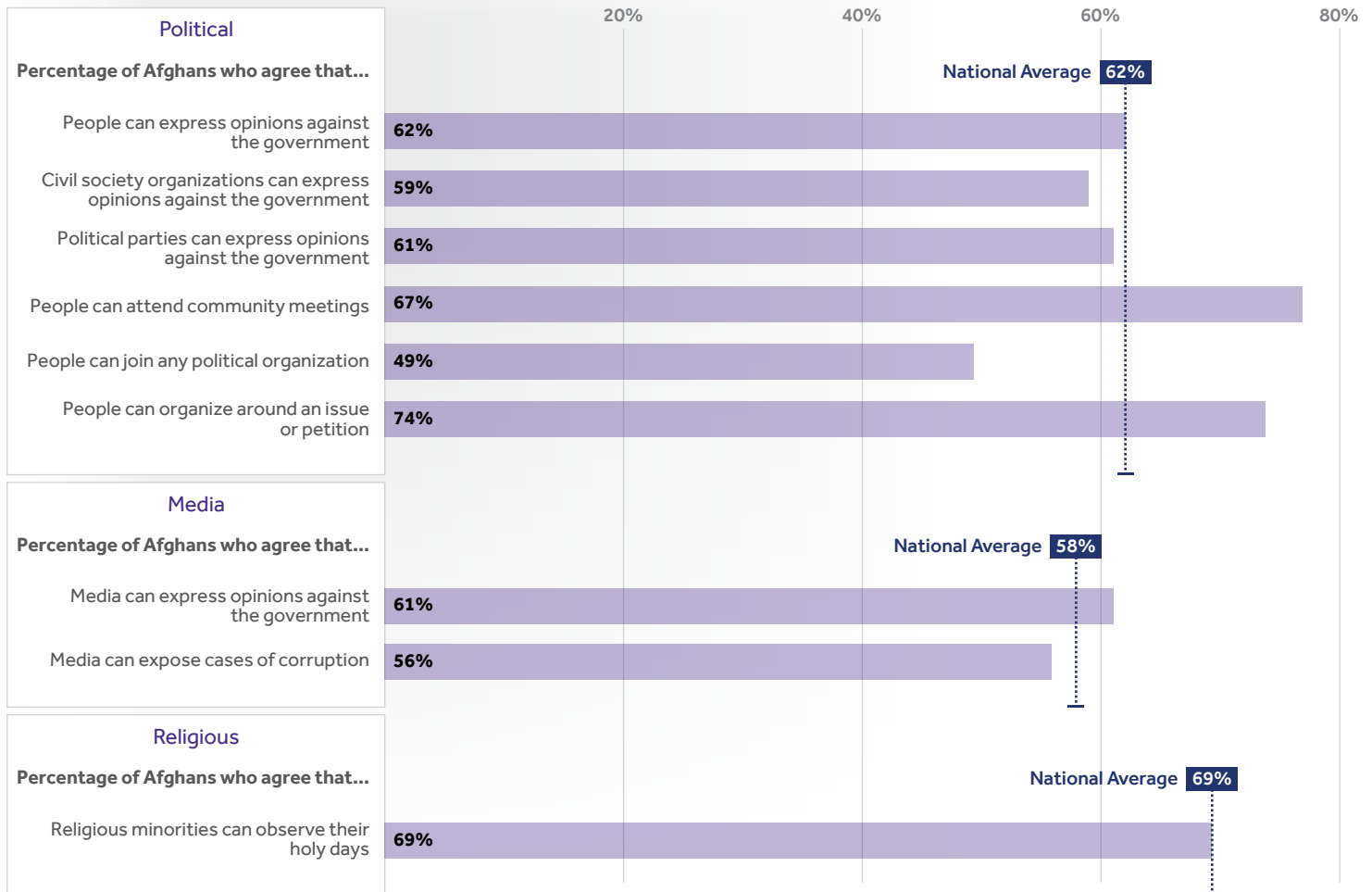
\* Insufficient number of observations

# Fundamental Freedoms

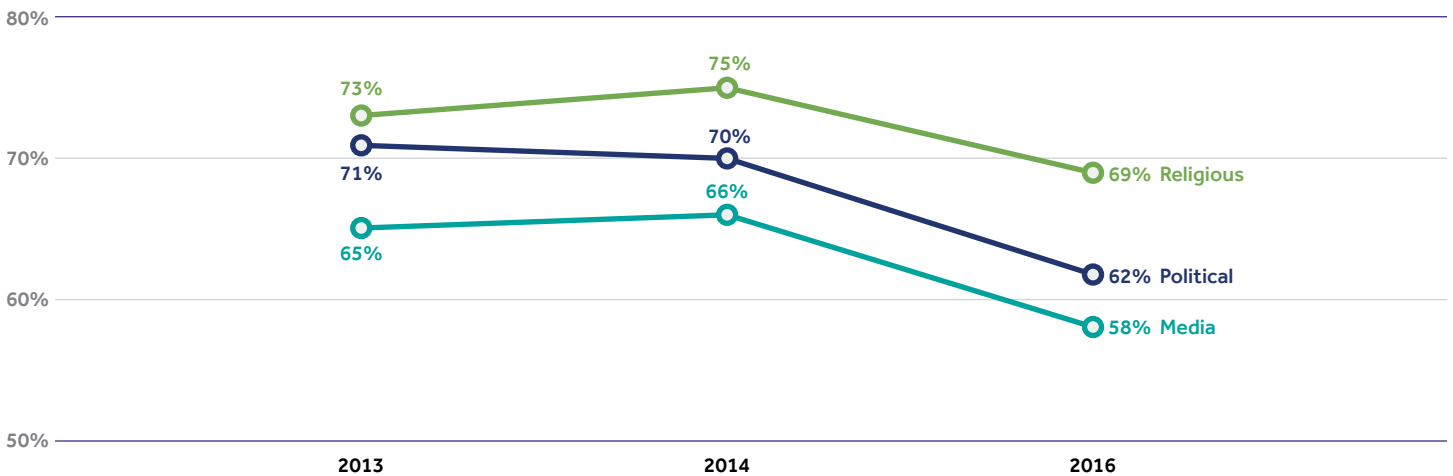
## Perceptions of Freedoms in Afghanistan

Afghans' views on political, media, and religious freedoms in the country.

### Breakdown of Fundamental Freedoms Questions



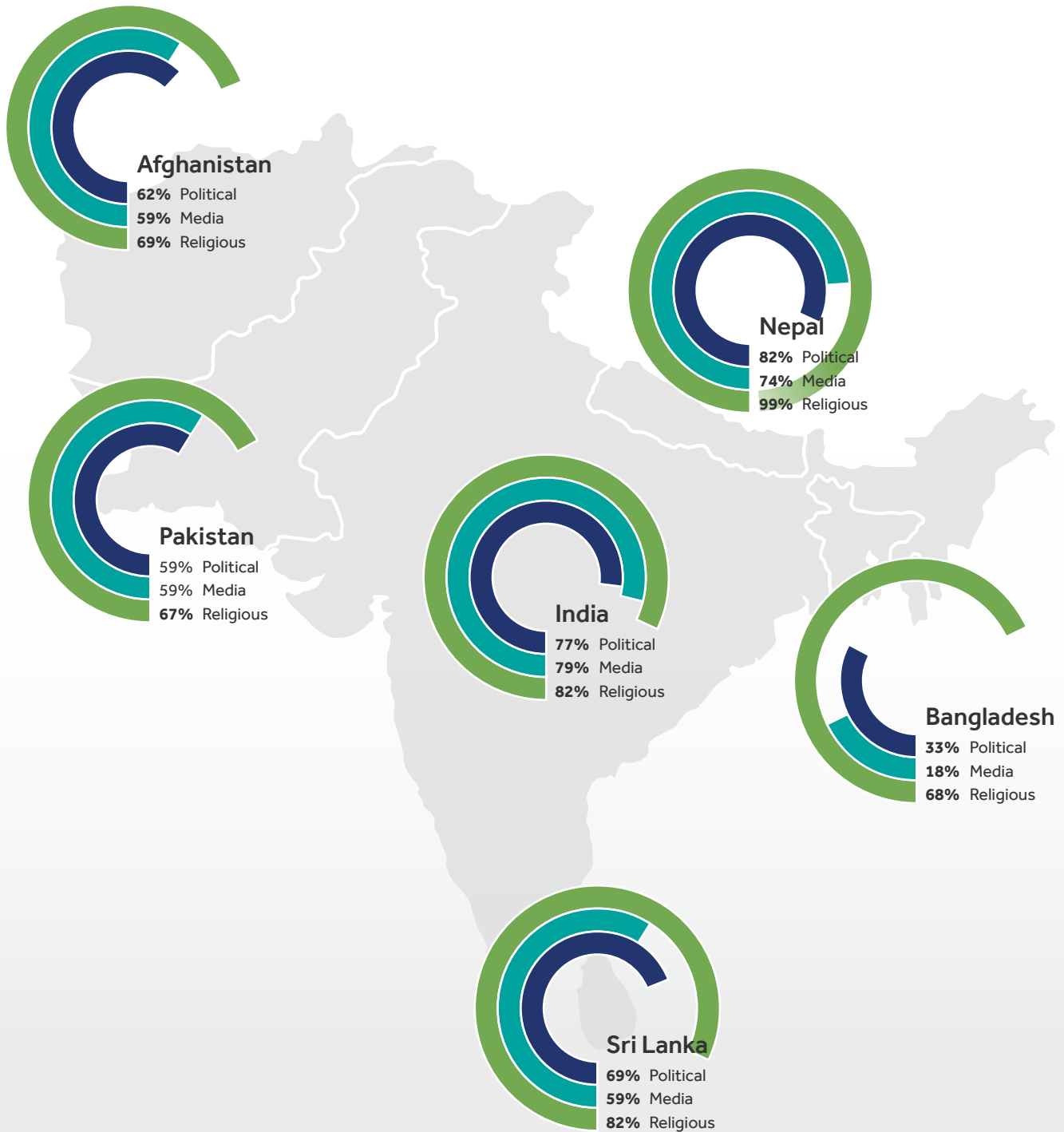
### Average of Fundamental Freedoms Over Time



Source: WJP General Population Poll 2013, 2014 & 2016

# Fundamental Freedoms

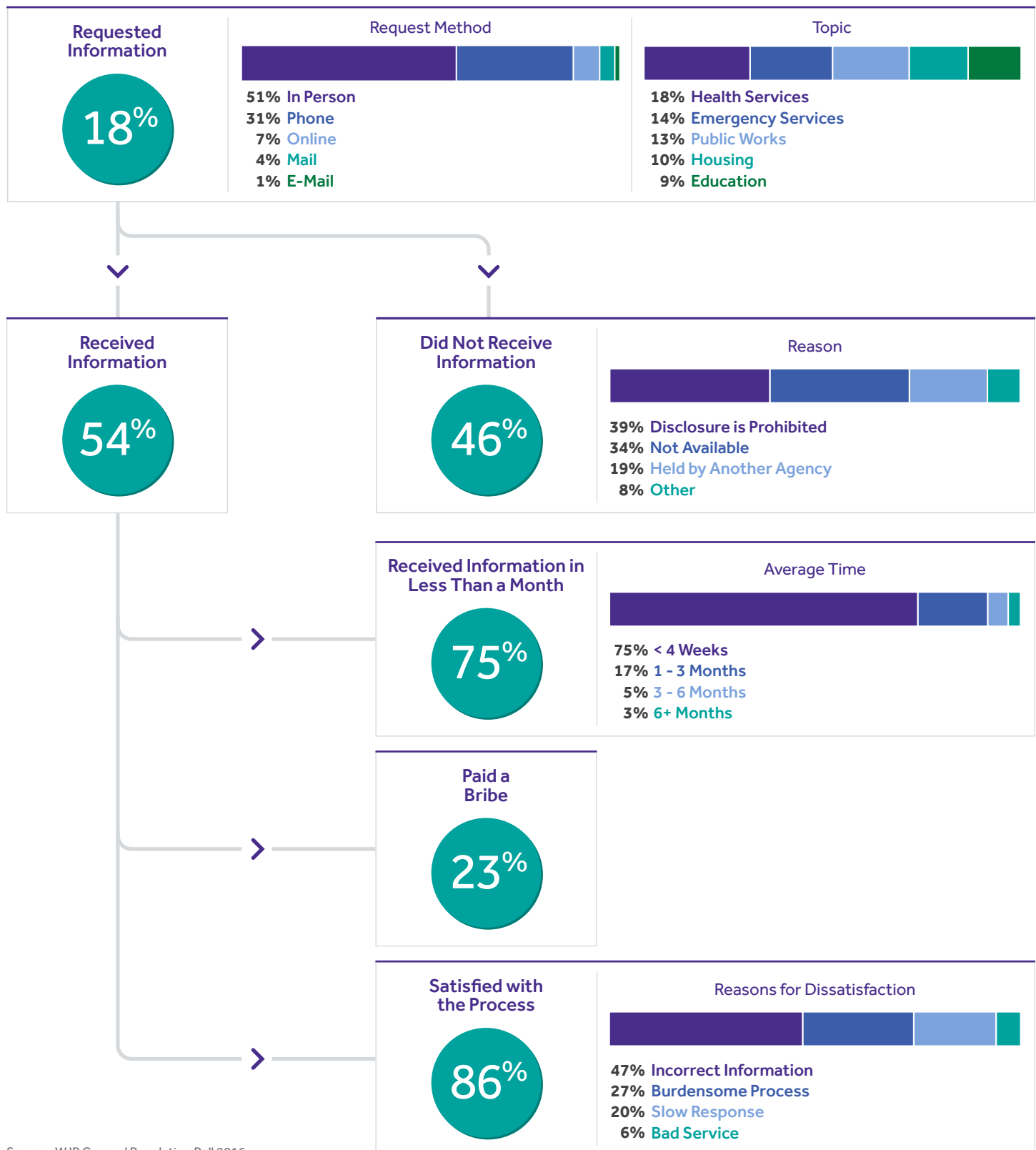
## Perceptions of Freedoms in South Asia





# Information Requests in Afghanistan

Afghans' experience requesting information held by a government agency in the last 12 months.

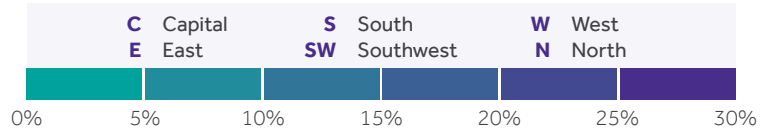


Source: WJP General Population Poll 2016

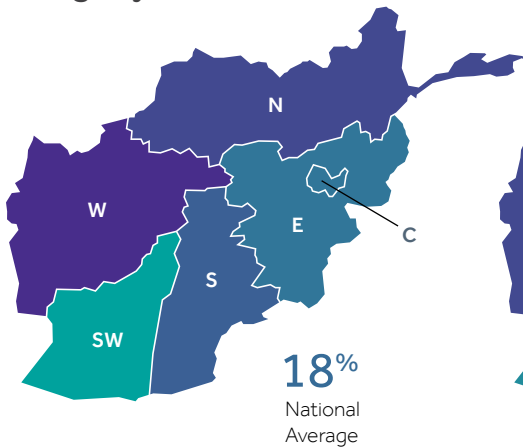
# Crime Victimization in Afghanistan

Percentage of households that have been victims of burglary, armed robbery, or murder in the last three years.

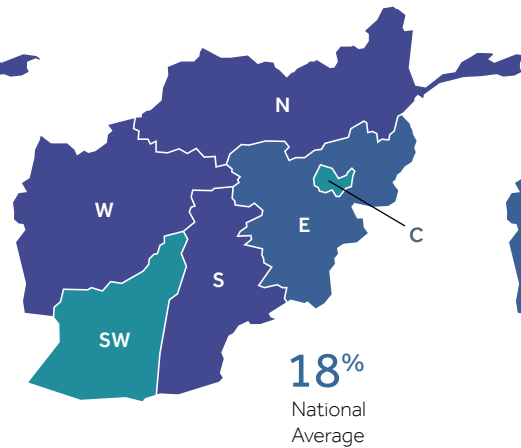
## Crime Victimization By Region



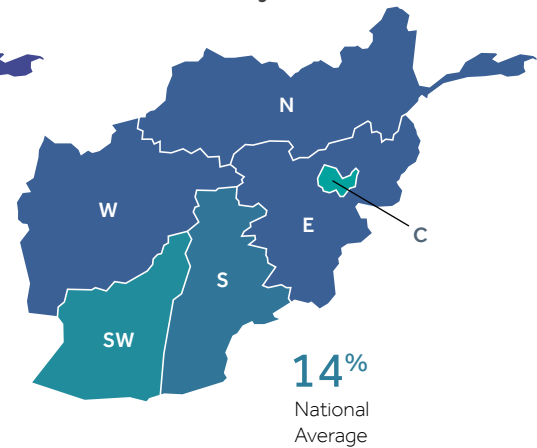
### Burglary



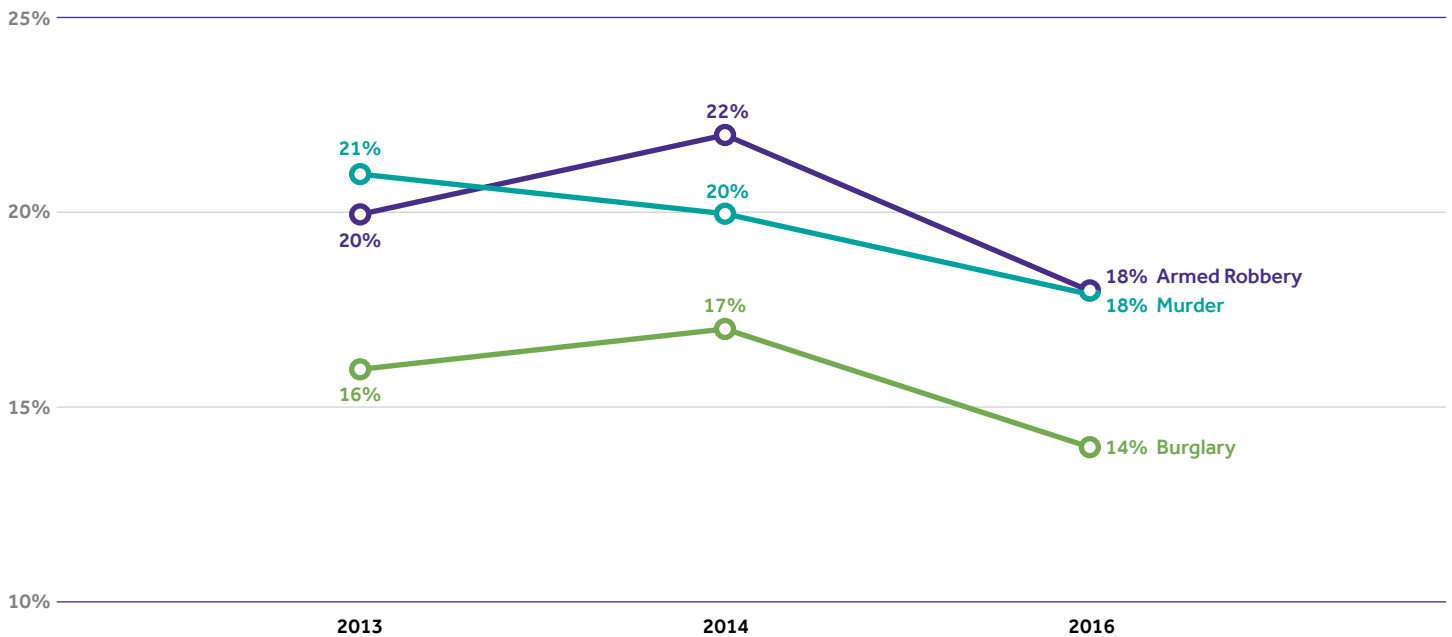
### Murder



### Armed Robbery



## National Average Over Time

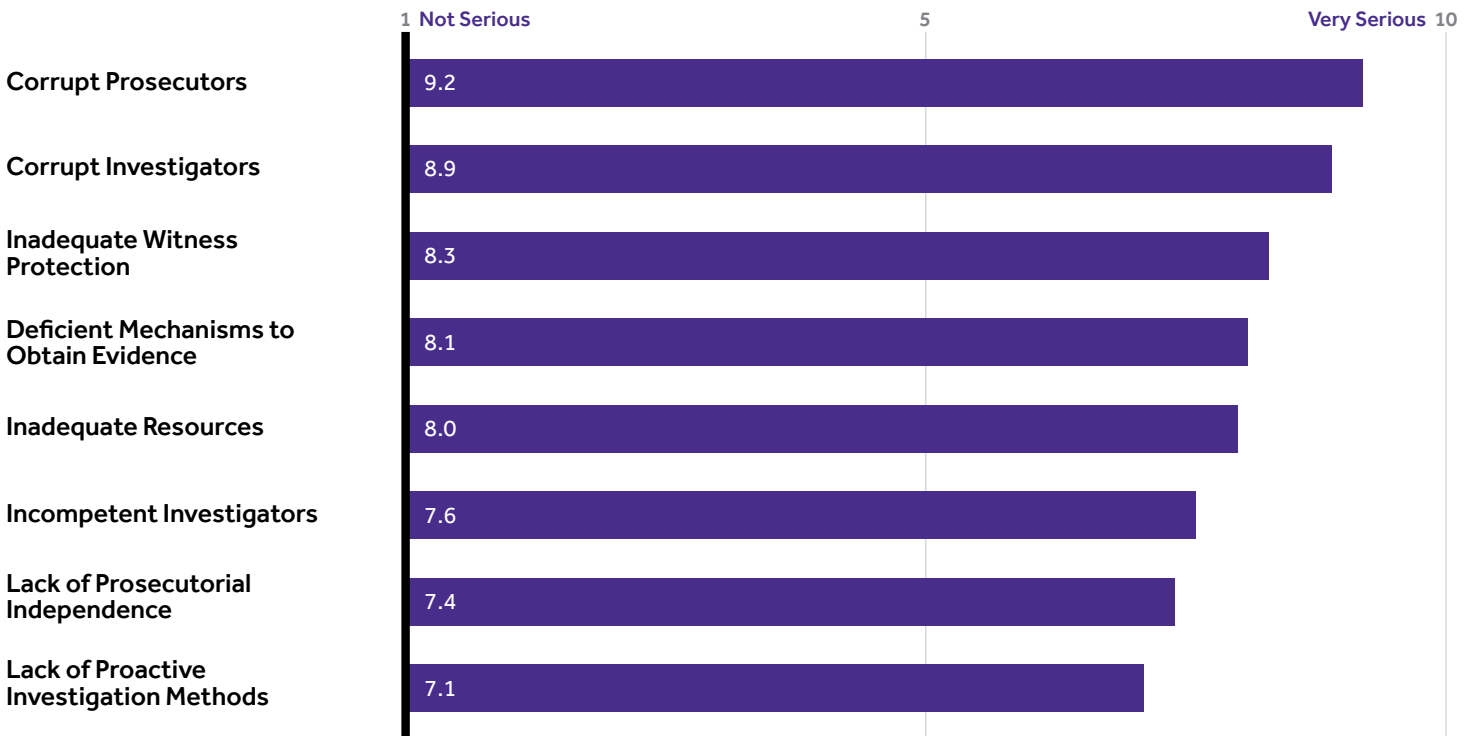


Source: WJP General Population Poll 2013, 2014 & 2016

# Criminal Justice in Afghanistan

## Problems of the Criminal Investigative Services

Problems faced by investigative services in Afghanistan rated on a scale of 1 to 10<sup>1</sup>

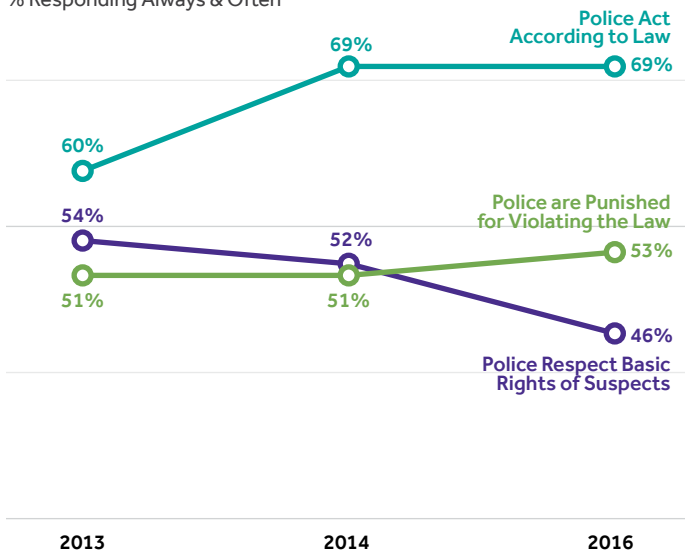


## Perceptions of the Police

### Accountability

#### Afghans' perceptions of police performance

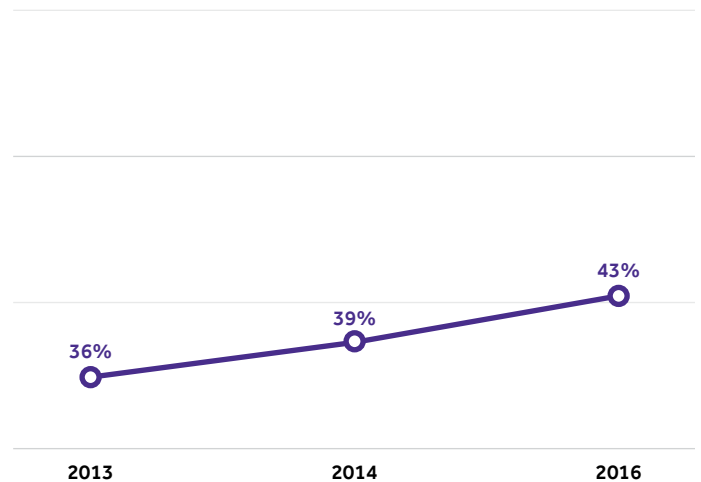
% Responding Always & Often



### Corruption

#### Afghans' perceptions about the number of police officers involved in corrupt practices

% Responding Most & All



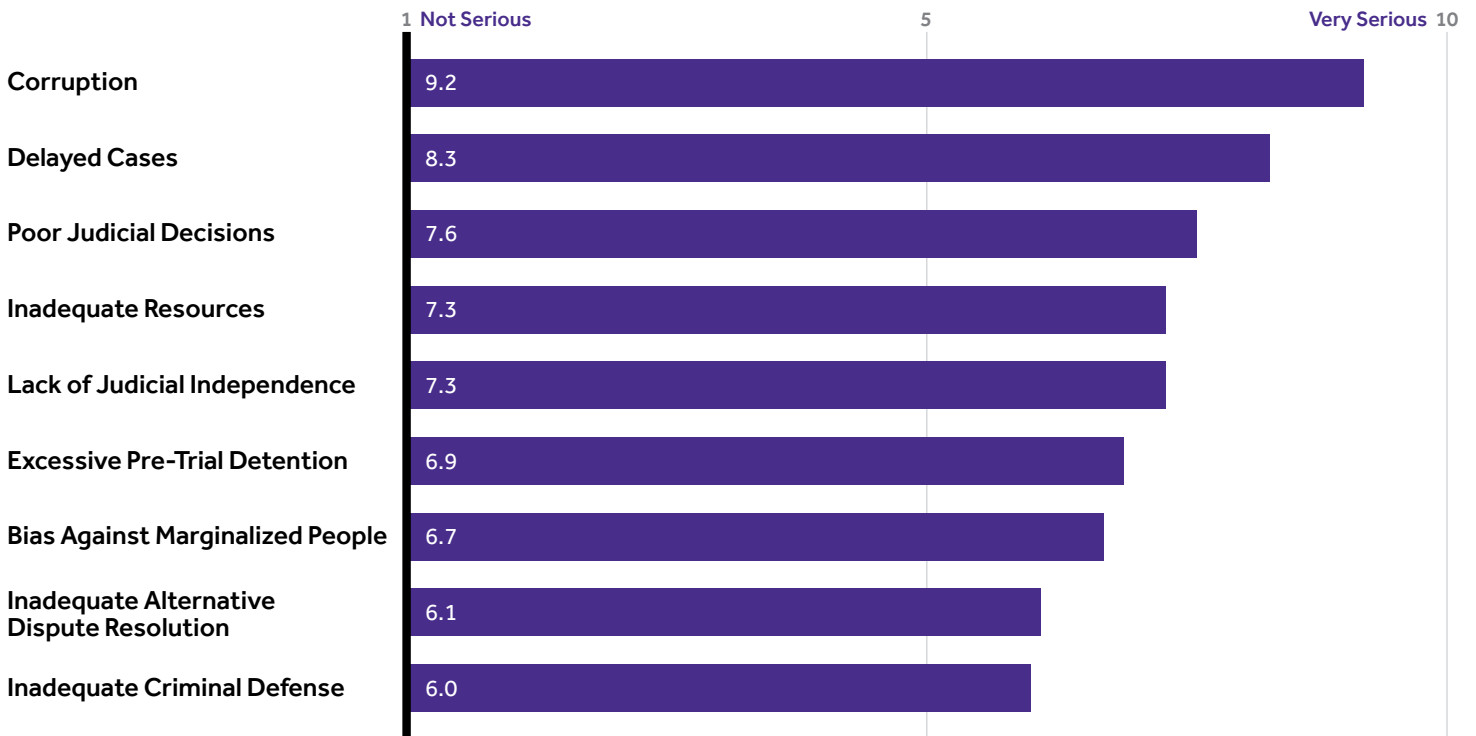
<sup>1</sup> Scores for problems of the criminal investigative services represent average response from Afghan criminal justice experts surveyed for the WJP Rule of Law Index 2016.

Perceptions data are from WJP General Population Poll 2013, 2014 & 2016.

# Criminal Justice in Afghanistan

## Problems Faced by Criminal Courts

Problems faced by criminal courts in Afghanistan rated on a scale of 1 to 10 <sup>2</sup>

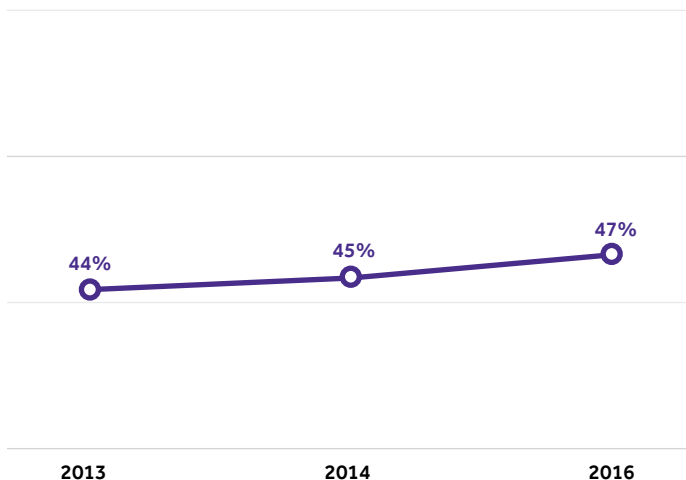


## Perceptions of the Courts

### Accountability

Afghans' perceptions of how often the courts guarantee everyone a fair trial

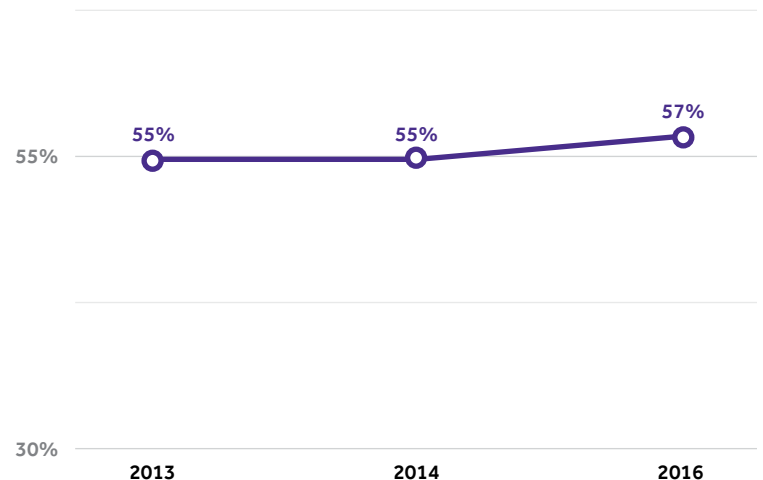
% Responding Always & Often



### Corruption

Afghans' perceptions about the number of judges & magistrates involved in corrupt practices

% Responding Most & All



<sup>2</sup> Scores for problems faced by the criminal courts represent average responses from Afghan criminal justice experts surveyed for the WJP Rule of Law Index 2016.

Perceptions data are from WJP General Population Poll 2013, 2014 & 2016.

# Legal Awareness

Percentage of Afghans who responded correctly to true or false statements about their legal rights.

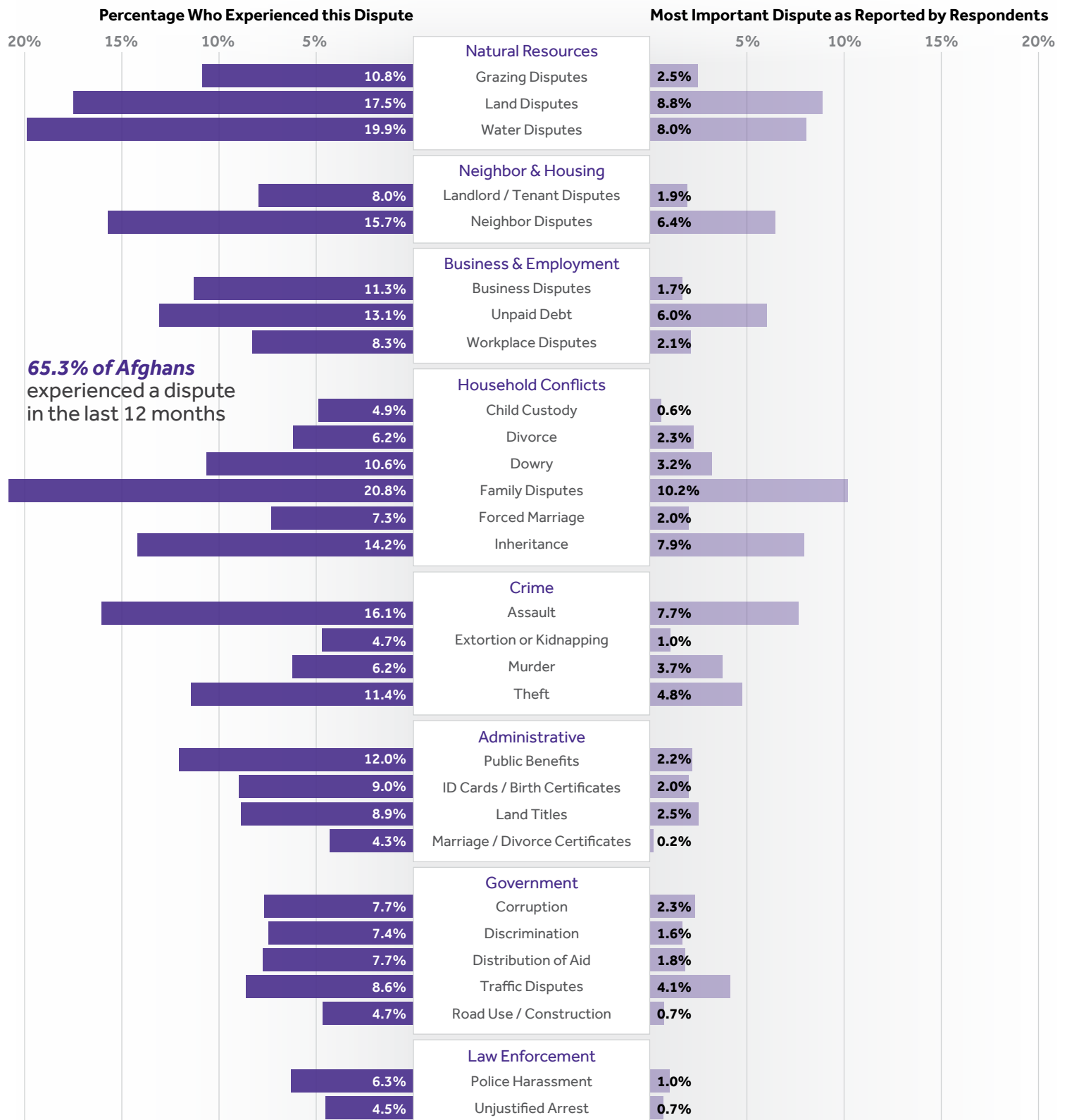
	National Average	Breakdown by Gender		Breakdown by Education			
		Men	Women	No Schooling	Primary Level	Secondary Level	University or Above
<b>Due Process</b>							
A suspect must be informed of the nature of the accusation immediately upon arrest. (TRUE)	72%	75%	68%	70%	72%	75%	79%
A poor person is entitled to free legal representation in criminal matters. (TRUE)	75%	75%	74%	74%	75%	75%	82%
A suspected criminal can be detained for as long as needed. (FALSE)	35%	31%	39%	36%	37%	31%	32%
<b>Land Rights</b>							
Citizens living on a piece of land for 10 years are entitled to receive a land certificate automatically. (FALSE)	71%	73%	70%	70%	70%	74%	73%
A person can use someone else's water supply without the owner's permission. (FALSE)	79%	78%	79%	76%	76%	84%	85%
Only the male head of household can be listed on a land certificate. (FALSE)	48%	45%	51%	48%	54%	47%	50%
<b>Women's Rights</b>							
The marriage of a girl whose age is less than 15 is allowed by law. (FALSE)	77%	75%	79%	76%	78%	76%	82%
A woman can obtain a divorce without the approval of her husband. (FALSE)	82%	84%	80%	81%	82%	85%	85%
Women can be exchanged as brides to settle unpaid debts. (FALSE)	85%	86%	85%	84%	88%	86%	91%
All citizens, men and women, have equal rights and duties before the law. (TRUE)	70%	67%	74%	70%	68%	71%	75%
<b>Average Score</b> Out of 10 questions	<b>6.9</b> /10	<b>6.9</b> /10	<b>7.0</b> /10	<b>6.8</b> /10	<b>6.9</b> /10	<b>7.0</b> /10	<b>7.4</b> /10



# Dispute Resolution in Afghanistan

## Dispute Types

Most common and most important disputes experienced by Afghans in the 12 months

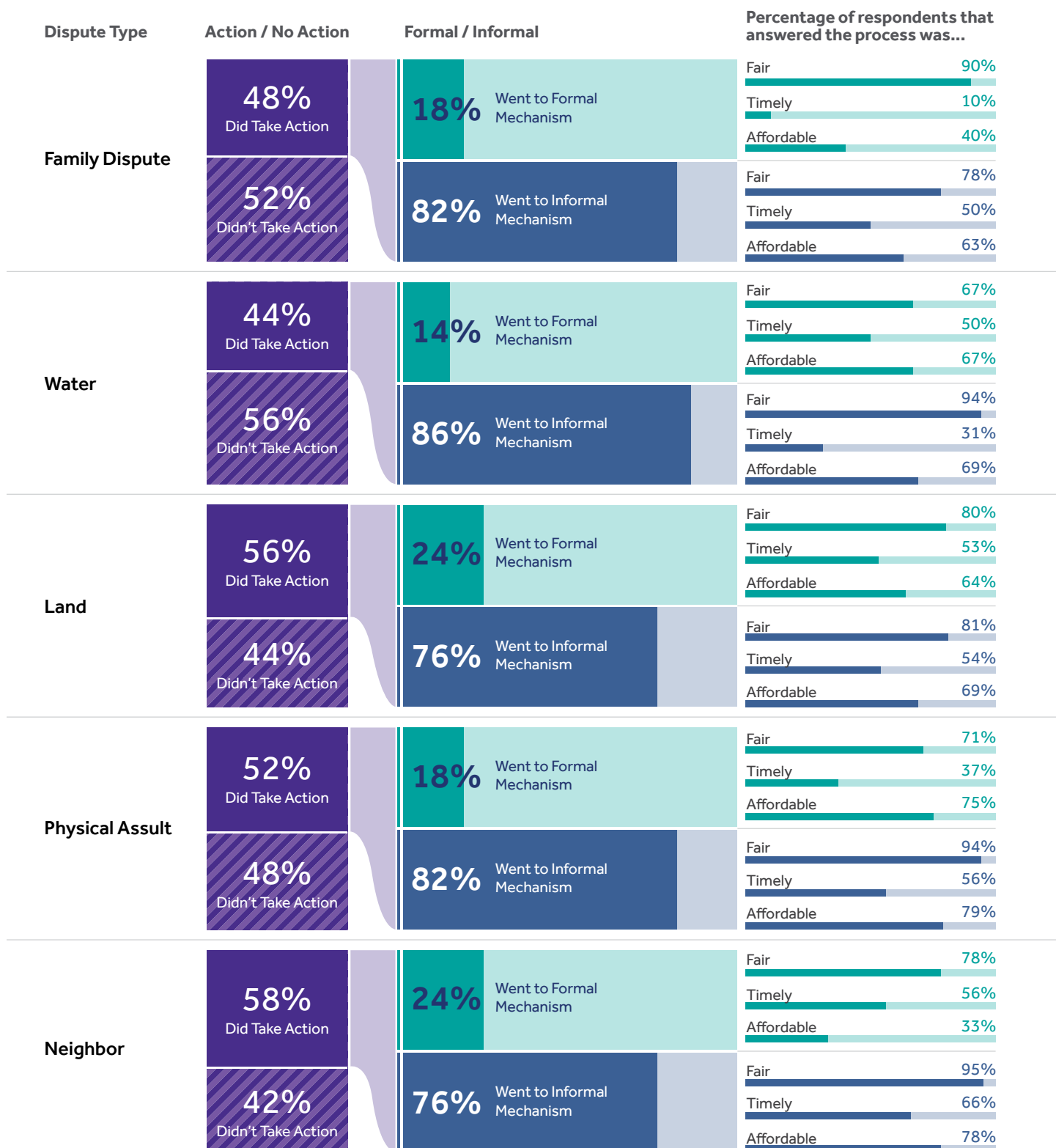


Source: Afghanistan Justice Sector Survey 2016

# Dispute Resolution in Afghanistan

## Experience with Five Most Common Disputes

Breakdown of whether respondents took action to resolve their dispute, took their dispute to a formal or informal resolution mechanism, and reported that the process was fair, timely, and affordable.

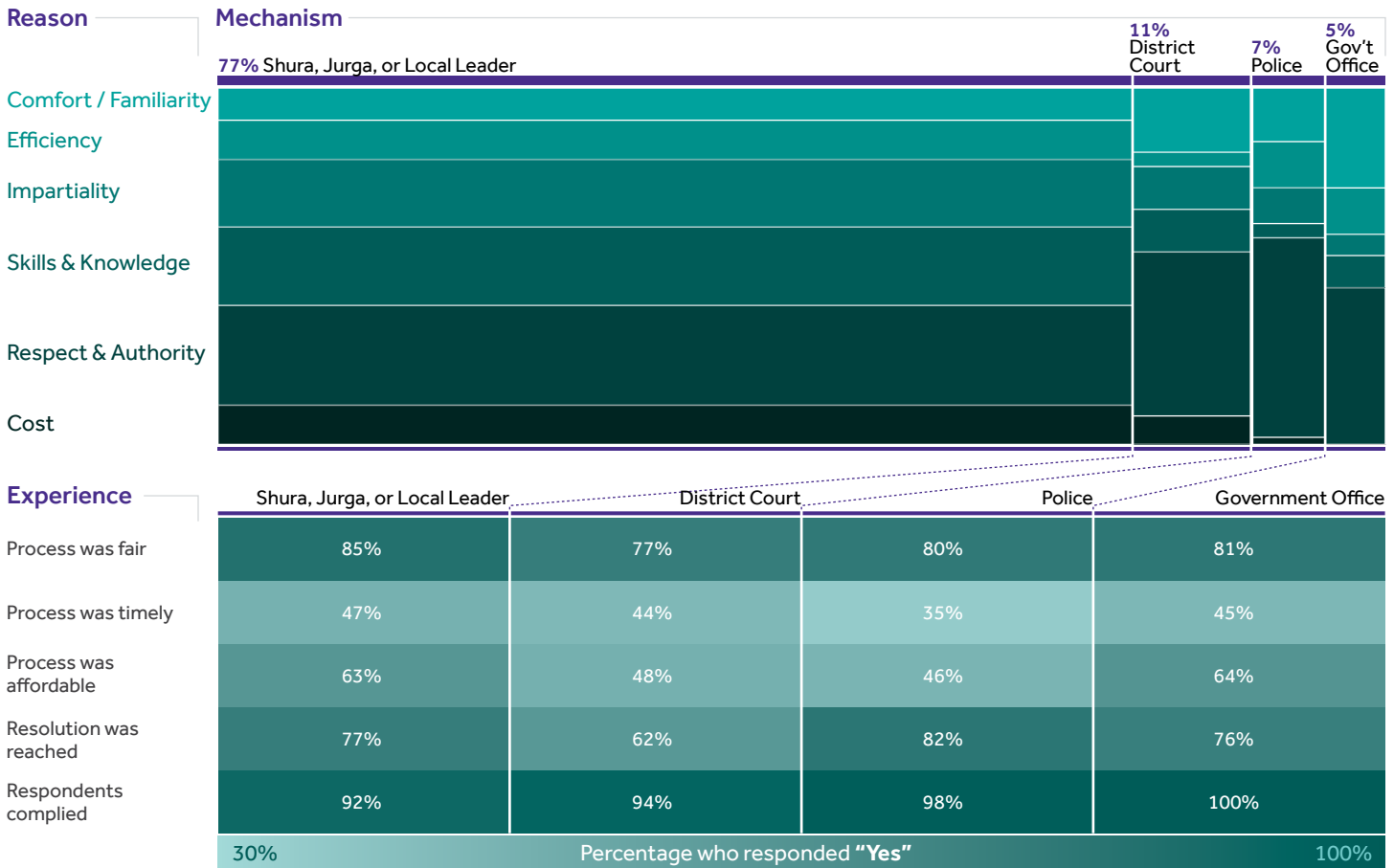


Source: Afghanistan Justice Sector Survey 2016

# Dispute Resolution in Afghanistan

## Experience Across Dispute Resolution Mechanisms

Percentage of respondents who took their dispute to different resolution mechanisms, the reason for choosing them, and their experience with each.



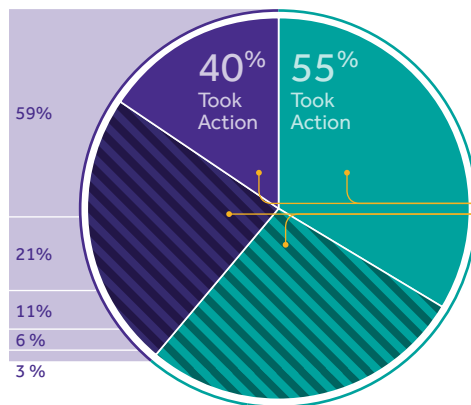
## Legal Aid

Among people experiencing disputes, how many get legal aid?

NO 39% YES 61%

Most common reasons for not obtaining legal aid

- Didn't think they needed advice 59%
- Didn't know who to call 21%
- Couldn't afford a lawyer 11%
- Don't trust lawyers 6%
- Think lawyers are ineffective 3%



49% Did Take Action

Action by Socio- Economic Status

- 51% Can't afford essentials
- 48% Can buy essentials but not clothes
- 48% Can buy essentials & clothes, not long-term goods
- 51% Can buy long-term goods, not expensive goods
- 56% Can buy expensive goods

51% Didn't Take Action

Most Common Reasons for not Taking Action

- 45% Peaceful resolution was reached
- 11% I caused the problem
- 10% Not important enough
- 07% Can Waste of time/useless
- 05% Did not have evidence

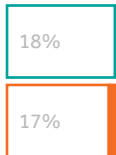
# Women in Afghan Society

Difference in men and women's views, legal documentation, and literacy.

## Views on Women's Role in Society

### Inheritance

**A** A married daughter is not entitled to her father's estate because she is under the care of her husband

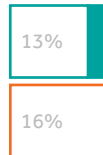


**B** All children are entitled to a portion of their parent's estate

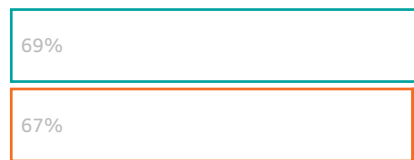


### Divorce

**A** A woman should be able to divorce without the approval of her husband



**B** A woman should obtain the approval of her husband for divorce



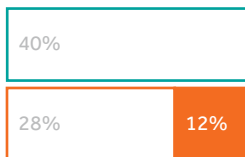
### Key

Values based on percent that agreed with statement A or B

Men	Difference
Women	Difference

### Domestic Violence

**A** A married man has the right to hit his wife if she misbehaves



**B** A married man does not have the right to hit his wife and should be stopped

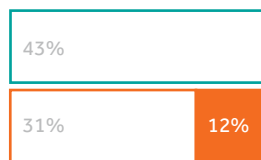


### Employment

**A** A woman should be allowed to work outside the home

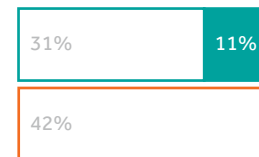


**B** A woman should not be allowed to work outside the home

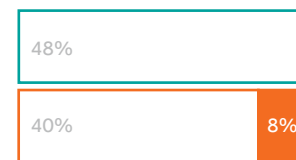


### Dispute Resolution

**A** Women should engage in local dispute resolution



**B** Women should stay out of local dispute resolution



## Legal Identity & Literacy

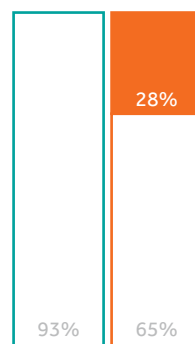
### Birth Certificate

Has a birth certificate



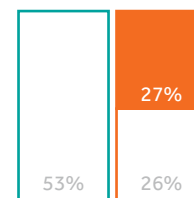
### National ID

Has a current, unexpired National ID



### Literacy

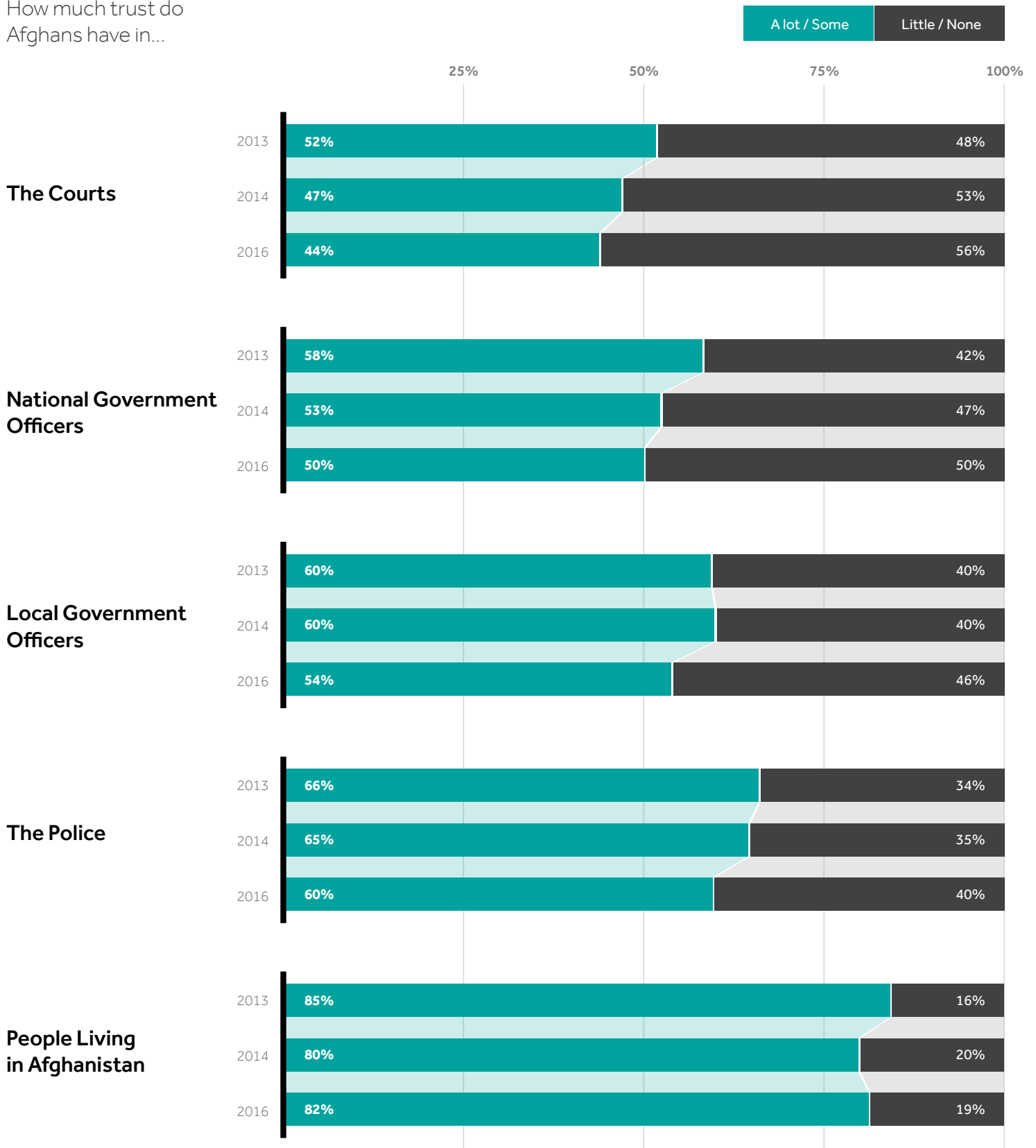
Can read and write



Source: Afghanistan Justice Sector Survey 2016

# Trust in Afghanistan

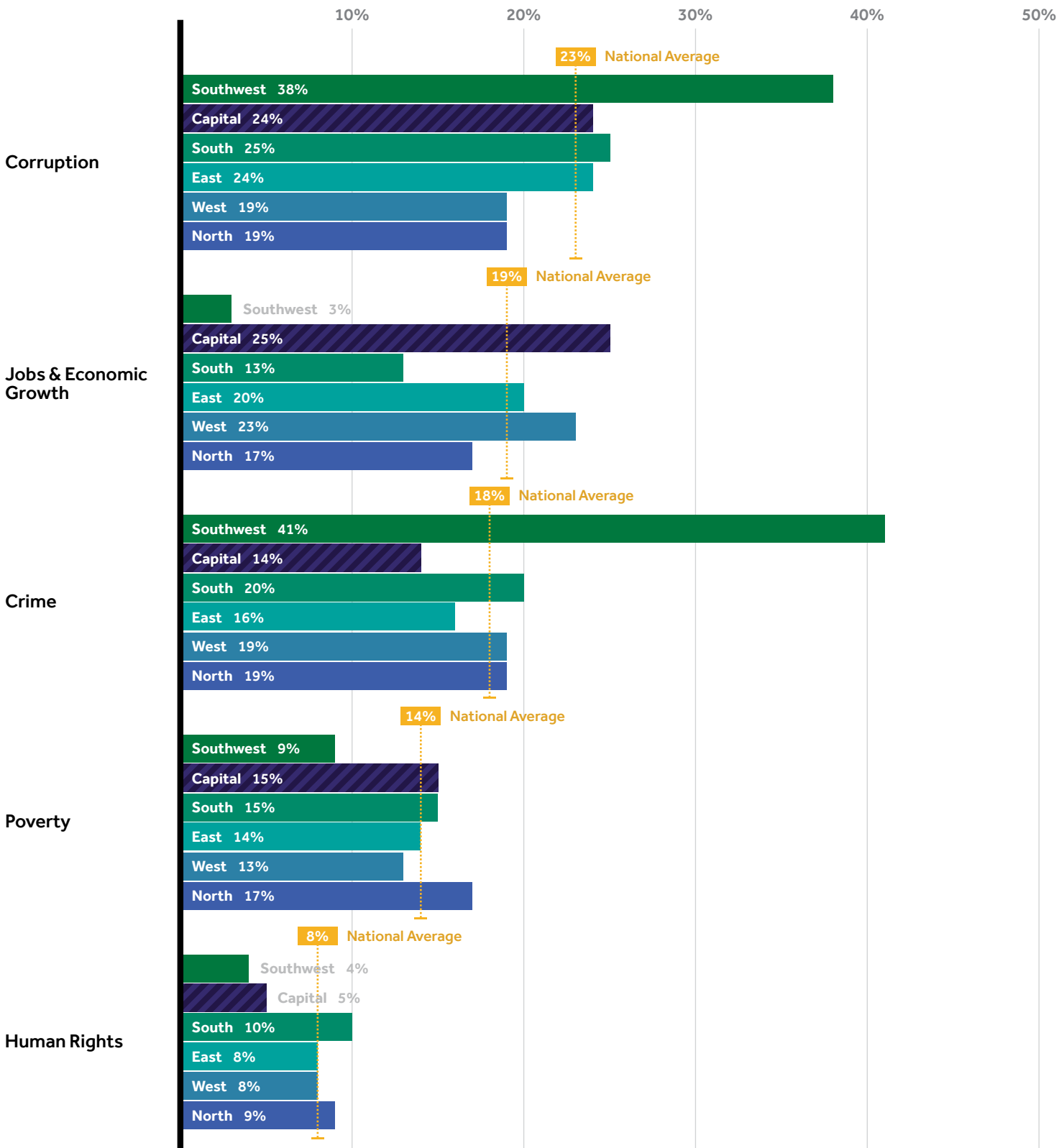
How much trust do Afghans have in...





# Governance Priorities in Afghanistan

Percentage of respondents who identified the following priorities as being the most important for Afghanistan over the course of the next ten years.



Source: WJP General Population Poll 2016

section

III

# In-Depth Interviews

# Summary of Qualitative Findings

This summary presents the most salient findings from 50 in-depth interviews (IDIs). Given the diversity of participants and dispute types, these findings attempt to convey an account that can be generalized as much as possible. Despite geographic, ethnic, and gender diversity of participants, there was remarkable cohesion around the role and efficacy of dispute resolution arbiters in Afghanistan.

## Perceptions of Dispute Resolution Bodies

### Village Elders and the Jirga

Participants were nearly unanimous in their sentiment that community elders are the de facto individuals responsible for solving problems among local residents. In some communities elders are elected, while in other communities, the position is inherited by the kin of previous elders. Many community elders are also mullahs or imams and are therefore highly respected members in the community. Irrespective of how elders are designated, they are held, with a few exceptions, in high esteem by their communities for their knowledge of Islam, wisdom, impartial judgment, and respect for all community members.

*"The [jirga] leadership position can be either inherited or not inherited in my community. There are some leadership positions that are not inherited: they are selected by the Mullah, community elders and wise people. There are some people whose father and grandfather were community elders and they inherit the position. We think that because his father was active and smart, therefore his son is also smart and deserves to hold a leadership position. His son is trained by his father and can bring justice."*

- Female, 29, Kandahar, Rural, Inheritance Dispute

The most common disputes involve the improper use of irrigation water, intra-family conflict, and conflicts between families caused by children. Participants cite a lack of education and unemployment as the underlying causes of disputes in their community. Unemployed men in particular are more frequently involved in disputes in an effort to generate an income. Many participants note that uneducated people, unaware of the legal consequences of their actions, tend to spark disputes over land, water, and inheritances.

*"There are people in the state courts who are corrupt. We try to solve 80% of disputes by holding jirgas. We have created an elders shura so we mostly address our problems that way. The state courts are mostly biased. For example, they took the side of Hazara people even if they were guilty...because their staff are mostly Hazara."*

- Male, 27, Ghanzi, Rural, Land Dispute

*"First, we attempted to convince the opposing party to resolve our dispute ourselves without involvement of a third party. However, they did not accept our suggestion and continued to tell us to find another way to bring water to our farmland."*

**- Male, 31, Kandahar, Rural, Water Dispute**

When a dispute occurs, nearly all participants first attempt to find a resolution themselves before involving a third party. There is a strong desire to keep knowledge of a dispute from spreading beyond those immediately involved for fear of judgement and straining relations with the community at large. If the parties involved are unable to reach a solution, the case is brought before the village elders.

*"The jirga solves many types of problems, for example, it resolves divorce cases, addresses problems over a women's share of an inheritance. It also solves cases of violence against women – some women are beaten by her husband's family and the jirga will interfere to resolve these family problems."*

**- Female, 28, Kandahar, Rural, Physical Assault Dispute**

Under most circumstances, elders are viewed as the preferred arbiters of a dispute because of their training in Islamic law and perceived impartiality. The village elders form a jirga of respected members of society from the surrounding community. This group is responsible for collecting facts from all parties involved and issuing a just decision. A few participants note that the jirga has been known to favor the wealthier or more politically connected party, but this is a small minority. Participants mention that some disputes are too complicated or contentious for the jirga to solve, such as an inheritance conflict between multiple family members. If the jirga is unable to reach a solution, it will typically refer the parties to a government court. That said, most participants view the jirga as the preferred arbiter to solve a dispute.

## Local Police

Most participants have limited trust in the local police force. Some villages report having responsible and effective local police, but most report they are incompetent, corrupt, and unqualified to solve a dispute. The primary purpose of the police is to maintain government control against Taliban and other insurgent groups. They are mandated to patrol highways, monitor checkpoints, and ensure the safety of local residents. Most participants consider the police to be ill-equipped for this task and generally unreliable.

*"The cause of all these disputes is that we do not have any government or rule of law. What is the police station for? There are 300 to 400 police in the police station. If they are on duty and actually on patrol, none of these incidents will happen. They should not let vagrants in the streets. They should ask people. They all sleep on their bases and half of them go to their house after just signing the attendance sheet in the morning and their payments is sent to their accounts. If 400 staff from the police station actually patrolled, these incidents would not happen."*

**- Male, 28, Kabul, Rural, Family Dispute**

Although members of the police force are recruited from their local villages, participants have limited interaction with them.

Given that the police are easily bribed and typically recruited from the ranks of the unemployed, participants do not consider them to be an impartial institution capable of administering justice. Many participants have seen police accept bribes from criminals or extort innocent civilians who were involved in a legitimate dispute.

*"They [police] are tasked to achieve the government's goals to eliminate militants in their areas, but in fact, they do what they want and they apply their own governance on people, they take money from wealthy people and fruit from gardeners by force, they do what they want, local police misuse the government name."*

- Male, 44, Kandahar, Urban, Inheritance Dispute

## State Courts

Participants offer mixed perceptions of and experiences with the state courts. State courts are typically located in the district center and provincial capitals. Nearly all participants understand that state courts are staffed with professional lawyers and judges – professions associated with high degrees of education. Some participants note that state courts are where one must appear to settle a land title transaction, file for divorce, or seek a resolution to a legal dispute. Courts are also seen as responsible for issuing sentences for imprisonment and administering fines for illegal activity. It's clear that state courts are viewed as a legitimate institution of the Afghan government.

There is substantial variation in the perceptions of state court effectiveness and impartiality. Some participants view state courts as capable of administering justice according to the civil law because those responsible are well-educated and understand the importance of a respected legal system. Some participants do not feel the state courts treat the poor and ethnic minorities equally, however. A plurality of participants thinks judges and prosecutors in state courts can be bribed to influence a decision. Due to the various layers of administrative bureaucracy with judges, lawyers, prosecutors, and clerks involved in the legal process, there is greater potential for bribery due to the multitude of actors involved in the dispute process. It should be noted, however, that very few participants who actually had a dispute resolved through a state court paid a bribe or were concerned that the other party had.

## Dispute Resolution Process

Participants were asked to share particular details of a dispute in which they themselves were involved. This section discusses general trends of the dispute resolution process. Of all the disputes that were discussed in the IDIs, a greater number involved other family members and neighbors. Disputes among family members often include a female family member seeking the inheritance of a deceased male family member, typically a father or husband. Disputes between neighbors frequently originate from a disagreement over the use of irrigation

water or a common property wall or fence. The vast majority of disputes were with people from within the same community.

For most disputes, those involved informally consult a male member of their own family for advice on how to resolve the dispute. More often than not, the participant tried to approach the other party first in an effort to come to a resolution without involving elders, the jirga, or courts. This practice was particularly prevalent among disputes that involved members of the same family or neighbors. There is a strong desire to avoid any public awareness of the dispute from both parties to avoid generating additional conflict within what is already a tense situation. Very few participants sought the official assistance of a lawyer.

One of the most striking themes to emerge is the high emotional toll participants suffer while trying to resolve their dispute. Many participants mention strained relationships with their families and communities, high levels of stress caused by the uncertainty of the outcome of the dispute, and how the outcome will affect their relationship with the other party. Intra- family disputes commonly result in family members refusing to speak with each other for months.

*"We had a very bad feeling [during the dispute] because people were laughing at us and our interaction with my uncles and my mother's families became worse. We could not express joy or sorrow at parties because people did not see us in a positive light."*

- Female, 28, Nangarhar, Rural, Inheritance Dispute

## Jirga

Given the variety of dispute arbitration groups and their unique procedures, each dispute has a unique story. There are some commonalities, however. Among participants who brought their dispute before a jirga, there is a formal procedure where the jirga convenes and each party presents their side of the story with as much evidence as possible. Members of the jirga review the evidence presented and speak with other members of the community who may have witnessed or been involved with the dispute. The entire resolution process is fairly quick; no participants expressed concern that the process was too lengthy. All disputes that involve a jirga were resolved within the local community.

*"Well, there are so many disputes of this kind in Afghanistan like family conflicts, inheritance, divorce and other crimes and disputes that occur in a family that should be solved first by the both parties between themselves and if they did not come to an agreement they can refer to the jirga. If they could not solve their disputes through these ways, they can refer to the courts to solve their disputes."*

- Female, 30, Nangarhar, Rural, Family Dispute

Once the jirga arrives at a decision, both parties comply with the outcome. There are very few cases where a party to the dispute did not accept the jirga's solution even if they vehemently disagreed. The jirga has the authority to demand payment for damages, force an inheritance to be distributed to the rightful heir, and determine where a fence should be placed. Nearly all participants who had their dispute solved by the jirga felt that the decision was impartial and they

respected the elders who were involved. In the majority of cases, both parties were able to resume normal interactions after the dispute was resolved even if they did not communicate during the resolution process.

## State Courts

Participants have varied experiences with state courts. Some went directly to the state court at the suggestion of a respected male family member. Others were referred to the state court by the village elders because the elders did not have the ability or authority to solve the dispute. Unless the participant lived in the district or provincial capital, they had to travel to the courthouse to file their case and present it to the judge. In some cases, participants had to return to the courthouse multiple times to appear before the judge or sign a document, which incurred travel expenses. Participants who had their dispute resolved through a court note that it took many months in most cases until a final decision was made. During this time, some participants suffer from anxiety over the outcome as they are unable to get frequent updates on the status of their dispute.

*"Courts solve problems regarding land, shops, and money, so people go to the courts. People accept the judges' decisions. If there are no courts, people will take each other's land and shops."*

- Female, 45, Kandahar, Rural, Land Dispute

Very few participants note having formal legal representation; most simply represent themselves. That said, some courthouse staff helped participants navigate the paperwork and proceedings and explained how the process would work. Female participants had to enlist the support of a male family member to accompany them to the courthouse and in many cases, help advocate for her. Not all participants feel the state courts had all of the necessary evidence to make an informed and impartial decision. There is concern among some that the courts can be bribed and judges will disregard important evidence to favor one party over the other. There are also some cases where the judge intentionally delays issuing a decision until the participant pays a bribe. Similar to rulings from the jirga, the outcome is typically respected by both sides, although there are a few instances where one party did not comply with the outcome because they suspected the court had been bribed.

## Conclusions

The dispute resolution process in Afghanistan can involve a variety of actors and institutions. Moreover, each community has its own standard processes that are largely driven by respect for the village elders. Elders are revered for their wisdom, training in Islamic law, and respect for all members of the community. Most disputes are first brought to the elders, who advise both parties to pursue their dispute through a jirga or to go directly to the state courts. If they advise going to a jirga, the disputing parties present their case and evidence to the entire group. Since the jirga is comprised of local elders, they are typically aware of the dynamics within the community and are seen as highly trustworthy. Their decision is respected, and typically is successful in resolving the dispute and helping both parties mend their relationship.

State courts are seen to have considerable authority over legal matters and are more likely to be utilized for disputes that require a legal formality such as a divorce or inheritance conflict. Given the multiple layers of government bureaucracy and the common practice of individuals representing themselves, state courts generally take longer to resolve disputes. Not all courts are seen as impartial; some are asked to pay a bribe by a judge or clerk which undermines the perception of impartiality the courts are supposed to uphold.

Nearly all participants recall their dispute having a negative effect on their personal relationships, which was a major cause of anxiety and stress. Regardless of the avenue through which their dispute was resolved, most participants are pleased with the outcome and more importantly, relieved that it is over.



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IV

# Project Design

# Extended General Population Poll Methodology

The General Population Poll in Afghanistan was conducted for the *World Justice Project Rule of Law Index*® with sampling, fieldwork, and data processing by D3 Systems and ACSOR Surveys based in McLean, Virginia and Kabul, Afghanistan respectively. The survey fieldwork was conducted face-to-face between August 15th and August 21st, 2016 by ACSOR Surveys, using a multi-stage random cluster sampling design. The two target populations for this survey were Afghans, aged 18+, residing across all 34 provinces of Afghanistan and Afghans, living in the three main urban areas of Kabul, Kandahar, and Herat.

## Sample Size & Sample Frame

The achieved sample size was 3,550 interviews distributed proportionally across all 34 provinces of Afghanistan, including a boosted sample of 1,000 interviews in the three main urban areas of Kabul, Kandahar, and Herat. The sampling frame was comprised of the 2010–2011 updated population figures from the Central Statistics Office (CSO) of Afghanistan. The sample was proportionally stratified by Province and Urban/Rural Status. The booster sample was stratified disproportionately to the three main urban areas to ensure a sample of at least 1,000 respondents in these areas.

### Descriptions of the Sample

**Region:** Interviews were conducted in the six regions of Afghanistan, with more interviews conducted in the Eastern (29%), Northern (23%), and Western (16%) regions.

**Geography:** 70% of respondents reside in rural areas, villages, and towns. 30% of respondents reside in metro areas or cities.

**Ethnicity:** Most respondents identified themselves as Tajik (34%), Pashtun (28%), or Afghan (18%).

**Gender:** 50% of respondents were male and 50% were female.

**Education:** Most respondents (58%) reported that they *had* received no formal education.

**Income:** Most respondents (69%) reported a monthly household income between 2,001 and 10,000 Afghanis.

## Sampling

For the main sample, districts were the primary sampling unit and sampled using probability proportionate to size systematic sampling. In urban strata, nahia (neighborhoods) were the secondary sampling units and were sampled using a systematic simple random sample. In rural strata, villages were the secondary sampling units and were also sampled using a systematic simple random sample. For the booster sample, nahia (neighborhoods) were the primary sampling unit and were selected using systematic simple random sampling. Within the sampled nahia or village, a systematic random route was performed to sample households and a Kish grid was used to sample respondents.

Accessibility at the district level was determined by ACSOR Surveys prior to field. Completely inaccessible districts were randomly replaced with accessible districts within the same strata, while female inaccessible districts were replaced by a male counterpart in the same primary sampling unit. Out of 366 district-level sampling points, 21 were completely inaccessible due to Taliban control.

## Sample Weights

Approximate sampling weights were applied to the final sample to account for rounding in the sampling, deletions due to quality control, and the booster sample. The design effect for the national sample is estimated to be 1.96, resulting in a complex margin of error of  $\pm 2.30$  percentage points at the 95% confidence level.

## Interviewing & Quality Control

A total of 327 interviewers worked on this project including 159 female interviewers. Each of the 34 provinces of Afghanistan had its own supervisory staff who were centrally trained in Kabul for this project. Interviews were conducted in four languages: Pashto, Dari, Uzbek, and Balochi.

A total of 17.9% of interviews were back-checked by the supervisory team in field. A total of 10% of questionnaires were selected for double-entry during data processing. After quality control, there were 108 questionnaires rejected from the final sample. A total of three contacts were attempted per respondent and 97.8% of completed interviews were completed on the first contact attempt. The average length of an interview was 39 minutes and ranged from 20 to 57 minutes.

## Additional Countries

The report includes comparisons to low income and South Asian peer countries previously surveyed by the World Justice Project. These countries are: Bangladesh, Burkina Faso, Ethiopia, India, Liberia, Madagascar, Malawi, Nepal, Pakistan, Senegal, Sierra Leone, Sri Lanka, Tanzania, Uganda, and Zimbabwe. The countries listed above are a portion of the 113 countries included in the *World Justice Project Rule of Law Index 2016* report. The surveys in these additional countries are administered using a probability sample of 1,000 respondents in the three largest cities of each country. Detailed information regarding the methodology of the WJP Rule of Law Index is available at [www.worldjusticeproject.org](http://www.worldjusticeproject.org).

# Afghanistan Justice Sector Survey Methodology

The Justice Sector Survey in Afghanistan was conducted for the *World Justice Project Rule of Law Index*® with sampling, fieldwork, and data processing by D3 Systems and ACSOR Surveys based in McLean, Virginia and Kabul, Afghanistan respectively. The survey fieldwork was conducted face-to-face between July 26th and August 1st, 2016 by ACSOR Surveys, using a multi-stage random cluster sampling design. The two target populations for this survey were Afghans, aged 18+, residing across all 34 provinces of Afghanistan and Afghans. The sample was a probability-based sample of the entire country.

## Sample Size & Sample Frame

The achieved sample size was 3,087 interviews distributed proportionally across all 34 provinces of Afghanistan. The sampling frame was comprised of the 2010-2011 updated population figures from the Central Statistics Office (CSO) of Afghanistan. The sample was proportionally stratified by Province and Urban/Rural Status.

### Descriptions of the Sample

**Region:** Interviews were conducted in the six regions of Afghanistan, with more interviews conducted in the Eastern (36%), the Northern (28%), and Western (12%) regions.

**Geography:** 74% of respondents reside in rural areas, villages, and towns. 26% of respondents reside in metro areas or cities.

**Ethnicity:** Most respondents identified themselves as Pashtun (35%), Tajik (32%), Hazara (12%), or Uzbek (8%).

**Gender:** 50% of respondents were male and 50% were female.

**Education:** Most respondents (60%) reported that they had received no formal education.

**Income:** Most respondents (49%) reported a monthly household income between 2,001 and 10,000 Afghanis.

## Sampling

For the main sample, districts were the primary sampling unit and sampled using probability proportionate to size systematic sampling. In urban strata, nahia (neighborhoods) were the secondary sampling units and were sampled using a systematic simple random sample. In rural strata, villages were the secondary sampling units and were also sampled using a systematic simple random sample. Within the sampled nahia or village, a systematic random route was performed to sample households and a Kish grid was used to sample respondents.

Accessibility at the district level was determined by ACSOR Surveys prior to field. Completely inaccessible districts were randomly replaced with accessible districts within the same strata, while female inaccessible districts were replaced by a male counterpart in the same primary sampling unit. Out of 388 district-level sampling points, 15 were completely inaccessible due to Taliban control.

## Sample Weights

Approximate sampling weights were applied to the final sample to account for rounding in the sampling and deletions due to quality control. The design effect for the national sample is estimated to be 1.96, resulting in a complex margin of error of  $\pm 2.30$  percentage points at the 95% confidence level.

## Interviewing & Quality Control

A total of 334 interviewers worked on this project including 163 female interviewers. Each of the 34 provinces of Afghanistan had their own supervisory staff who were centrally trained in Kabul for this project. Interviews were conducted in four languages: Pashto, Dari, Turkmeni, and Balochi.

A total of 17.7% of interviews were back-checked by the supervisory team in field. A total of 10% of questionnaires were selected for double-entry during data processing. After quality control, there were 13 questionnaires rejected from the final sample. A total of three contacts were attempted per respondent and 97.7% of completed interviews were completed on the first contact attempt. The average length of an interview was 39 minutes and ranged from 20 to 66 minutes.

# In-Depth Interview Methodology

The World Justice Project commissioned D3 Systems, Inc. to deliver 50 in-depth interviews (IDIs) to complement findings from a national probability-based survey of Afghans' perceptions of and experience seeking justice. The fieldwork was carried out by the Afghan Center for Socio-Economic and Opinion Research (ACSOR) based in Kabul, Afghanistan. The IDIs were conducted primarily with respondents identified from the quantitative survey conducted in August 2016 by ACSOR.

## Sample Selection

Of the many types of disputes that were catalogued during the quantitative survey, only respondents who were involved in a dispute related to land, water, a family matter, inheritance, a neighbor conflict or physical assault were asked to participate in an IDI. Participants were recruited from Ghazni, Kabul, Kandahar, and Nangarhar provinces using contact information provided during the quantitative survey. The IDIs were conducted in November 2016. The plan was to complete 10 IDIs in Helmand but as field neared the security conditions in Helmand worsened and the decision was made to assign those 10 IDIs to Kandahar province. Participants were 19 years or older and included both male and female respondents.

## In-Depth Interviews by Dispute Type and Province

Dispute Type	Ghazni	Kabul	Kandahar	Nangarhar
<b>Land</b>	2	3	4	2
<b>Water</b>	2	2	3	1
<b>Family</b>	1	1	4	2
<b>Inheritance</b>	2	1	4	2
<b>Neighbor</b>	2	1	3	2
<b>Assault</b>	2	1	2	1
<b>Total</b>	<b>11</b>	<b>9</b>	<b>20</b>	<b>10</b>

D3 and WJP prepared a detailed discussion guide to probe participants about perceptions of justice in their community, the arbitration process, and how it affects their community and personal life. The guide asks participants to share a personal dispute and their attempt to resolve it. Participants were asked to provide their informed consent and were under no obligation to engage in an interview. IDIs were audio recorded, then transcribed and translated into English by ACSOR staff. English transcripts were sent to D3 for review, delivery, and analysis.

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# Appendix

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# Appendix

## Survey Instruments & Databases

### General Population Poll

The General Population Poll was designed to capture data on the experiences and perceptions of ordinary people on a variety of themes related to the rule of law, including government accountability, bribery and corruption, crime, and access to justice. The poll was conducted in August 2016 through face-to-face interviews in 3,550 urban and rural households distributed proportionally across the 34 provinces of Afghanistan.

- [World Justice Project General Population Poll 2016 – Survey Instrument](#)
- [World Justice Project General Population Poll 2016 – Frequency Tables for Afghanistan](#)

### Afghanistan Justice Sector Survey

The Justice Sector Survey was designed to capture data on Afghans' views and experiences with dispute resolution, legal awareness, legal identity, household dynamics, and gender issues. The poll was conducted in July and August 2016 through face-to-face interviews in 3,087 urban and rural households distributed proportionally across the 34 provinces of Afghanistan.

- [World Justice Project Afghanistan Justice Sector Survey 2016 – Survey Instrument](#)
- [World Justice Project Afghanistan Justice Sector Survey 2016 – Frequency Tables](#)





**World Justice  
Project**

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## About the World Justice Project

The World Justice Project (WJP) is an independent, multidisciplinary organization working to advance the rule of law worldwide. Effective rule of law reduces corruption, combats poverty and disease, and protects people from injustices large and small. It is the foundation for communities of peace, equity, and opportunity – underpinning development, accountable government, and respect for fundamental rights.

Traditionally, the rule of law has been viewed as the domain of lawyers and judges. But everyday issues of safety, rights, justice, and governance affect us all; everyone is a stakeholder in the rule of law. Based on this, WJP's mutually-reinforcing lines of business – Research and Scholarship, the *WJP Rule of Law Index*<sup>®</sup>, and Engagement – employ a multi-disciplinary approach through original research and data, an active and global network, and practical, locally-led programs to advance the rule of law around the world.