

# AFGHANISTAN JUSTICE SECTOR SUPPORT PROGRAM

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پروگرام حمایت سکتور عدلی افغانستان

تمویل کننده: وزارت خارجه امریکا - ریاست بین المللی مبارزه با مواد مخدر و تنفیذ قوانین



J S S P

## SPECIAL REPORT KAPISA PROVINCIAL JUSTICE CONFERENCE 27-28 January 2008

JSSP facilitated the Kapisa Provincial Justice Conference (PJC) on 27-28 January 2008. The Kapisa PJC, held in the provincial capital, brought together Afghan leaders of the national, provincial, and district-level government along with representatives of the U.S. military to find the means to improve the justice sector in Kapisa.

The event was conceived and organized by JSSP with the support of the Kapisa Office of the Governor, INL/Kabul Justice Program Manager Jahn Jeffrey, the Kapisa Provincial Reconstruction Team (PRT) under the command of the United States military, Col. Jonathan Ives (USA), Capt. Stephen Sarnoski (USN) of the Kapisa PRT, and the Corrections System Support Program (CSSP).

The following representatives of the national government of Afghanistan attended the Kapisa Provincial Justice Conference:

Justice Abdul Qadir Habib	<u>Study and Research Directorate of the Supreme Court</u>
Mr. Khalil Khan	<u>Ministry of Justice, Government Cases Department</u>
Col. Said Ahmadullah	<u>Ministry of Justice, Sec. of Head of Prisons</u>
Muneer Ahmad Patang	<u>Legal Advisor of the Attorney General's Office</u>
Gen. Zakir Zakiri	<u>Ministry of Interior, Legal Advisor</u>
Professor Muhsin Farid	<u>Afghan Independent Human Rights Commission</u>

Governor Khawaja Abubaker welcomed participants to the PJC and thanked JSSP for organizing the conference. The Governor specifically welcomed the delegation of government representatives from Kabul, and praised the efforts made by the Afghan government to collaborate with JSSP to improve the justice sector. He stated his belief that these provincial justice conferences are important, in that they show a commitment to support Afghanistan and the entire Muslim world. Justice sector support positively impacts security, he continued, which will lead to the defeat of the insurgency. Finally, the governor stated that while he was appreciative of the support given to Kapisa by the international community, he believed that there was still much work to be done and declared his expectation that more support will follow.

The Governor noted that Kapisa has many challenges due to the current security situation, but pledged his commitment to improve the rule of law throughout the

province. He invited JSSP and the U.S. military to plan more trainings and conferences in Kapisa.

Following the opening comments by the Governor, the conference participants were divided into five breakout groups, each of which concentrated on their particular pillar of the justice system. Each group -- police, prosecution, courts, corrections, and human rights -- discussed the challenges its members face in administering justice and providing public safety, identified potential solutions, and sought commitments from the national leaders and international participants of the conference. Participants prioritized needs and identified potential solutions.

The second day of the conference began with a panel discussion, followed by a dialogue between the national and provincial leaders. The participants pledged closer cooperation and follow-up on issues developed in the conference, and each breakout group summarized its discussions for the conference participants. The provincial government leaders of each justice sector presented the findings of their respective groups, and summarized major points of interest discussed by their colleagues. As a result of the discussions, each side pledged closer cooperation and follow-up on issues identified during the breakout sessions. JSSP pledged to continue to work with the Afghan leadership and the U.S. military to ensure progress is made on justice sector reform.

The reports of the breakout sessions are summarized below:

## **POLICE:**

Fifteen police officers from six districts participated in the breakout session. The discussion focused on training and infrastructure needs, and the need for additional, qualified police officers throughout the province of Kapisa. In addition to the breakout session, the General Sub-Directorate of Counter Criminal Acts of Kapisa Police Headquarters submitted a letter that listed specific needs.

### Physical and Financial Infrastructure

- The Kapisa police representatives stated that there is an urgent need for a female detention center, as well as trained female police officers to conduct searches of female suspects and their residences.
- The district police lack basic investigative tools, such as binoculars and cameras.
- The police officers requested filing and storage equipment for case files, as well as basic office supplies and equipment.
- In most of the districts there are no office buildings for judges, prosecutors, and ministry of justice officials.
- Most police officials lack a residence in the districts to which they are assigned.
- Ambulances and sufficient medical supplies are lacking throughout the province. A specific request was made for a medical clinic to be constructed in each district.

- Exercise equipment, adequate drinking water, and routine health care are required to improve the fitness level of police officers.
- Containers are needed for use as checkpoints throughout the province.
- There is currently no forensic laboratory in which to identify drugs or compare fingerprints.

#### Salary and Personnel

- There are no female police officers. A minimum of six female officers is needed.
- The overall number of police officers in Kapisa is insufficient.
- The police officers stated that their salary, which is currently less than U.S. \$150 per month, is insufficient and should be increased. A pay scale should be implemented reflecting current position and rank.

#### Training

- Long- and short-term training courses are needed for all police personnel.
- There is an overall lack of skilled personnel, which can be remedied by increased training and shifting of personnel currently assigned in other positions.

#### Action Items

- JSSP will work with the PRT leadership and the Kapisa Chief of Police to submit quick impact projects to address some of the equipment needs of the Kapisa Police.
- JSSP will coordinate a criminal justice training program, which will include training for the police representatives that attended the Kapisa PJC.

### **PROSECUTION:**

The prosecution breakout group included 16 prosecutors, whose discussion focused on physical infrastructure and training needs. District prosecutors have had few opportunities to participate in training programs, and the group requested that the international organizations assist in providing them.

#### Physical and Financial Infrastructure

- There is insufficient office space in the one building that the prosecutor's office currently shares with other government agencies.
- The prosecutor's office lacks vehicles or alternative means of transportation.
- The prosecutors discussed the lack of furniture, stationery, computers, photocopy machines, and typewriters. The prosecutors specifically requested filing cabinets and other storage equipment.
- Communication equipment, such as mobile telephones, is lacking.
- The prosecutors also lack sufficient investigative equipment and training with which to use them.
- A library with computers and access to Afghan laws does not exist and was specifically requested.

### Salary and Personnel

- Female investigative prosecutors are needed throughout the province.
- Salaries are insufficient and are not timely paid.
- Prosecutors noted that the Tashkil is not being implemented.

### Training

- The participants asked for legal training courses in Kapisa province. Specific training on the law and its interpretation is severely lacking, and there is a shortage of experienced prosecutors.
- Training courses should also focus on fostering cooperation between police, prosecutors, and the judiciary. A monthly meeting between police, prosecutors, and the judiciary was suggested as a means of enhancing cooperation.
- In addition to legal training, the prosecutors requested training on human rights, and basic investigative and forensic collection techniques.

### Action Items

- JSSP will work with the PRT leadership and the Kapisa prosecutor's office to submit quick impact project proposals to address some of the equipment needs of the Kapisa prosecutors; and
- JSSP will coordinate a criminal justice training program, which will include the police representatives who attended the Kapisa PJC.

## **COURTS:**

Twelve judicial officials took part in the breakout group. The judges focused their discussion on the lack of training and a law library for use by all justice sector actors. Breakout group participants also expressed their desire for increased security measures and the opportunity to travel to other countries to observe functioning legal systems.

### Physical and Financial Infrastructure

- The judges noted a lack of communication and transportation equipment. The majority of the judges in Kapisa live in Kabul, requiring that they commute to their assigned districts.
- The judges expressed an urgent need for a legal library in each court in the districts and province capital, as well as basic office equipment and stationery. In addition, computers and copies of the Afghan Constitution and other laws are lacking, as well as copies of the Quran and interpretive treatises.
- The courts lack office space and equipment.
- There is a significant need of housing for judges and court staff.

### Coordination

- The judges' group discussed the lack of cooperation between justice institutions.

### Salary and Personnel

- There is not enough trained and experienced court staff.
- The salary is insufficient for all justice sector employees.

### Training

- The judges requested a training seminar on interpretation of the penal, civil, and commercial procedure codes.

### Action Items

- JSSP will provide training as part of the Provincial Justice Training seminar, to include training on statutory interpretation for judges; and
- Investigate the feasibility of establishing a law library in the province for use by judges and other provincial justice actors.

## **CORRECTIONS:**

Approximately 15 corrections representatives participated in the Kapisa PJC. The corrections breakout session was co-lead by Robert Aguirre, a CSSP mentor, and focused on the concerns and issues of the prison system in Kapisa. Deficiencies in the physical infrastructure were discussed, particularly as it relates to prisoner's welfare. Specifically, a lack of drinking water and bathroom facilities is especially acute throughout the districts.

### Physical and Financial Infrastructure

- Communication – There is a lack of communication equipment, and mobile telephones are needed to facilitate communication between the district detention centers. A minimum of six radios is needed immediately. Additionally, poor record keeping and a lack of communication within the justice sector results in many prisoners remaining incarcerated after the term of their sentence has expired. Specifically, prison officials are not notified of the results of appeals court decisions involving prisoners convicted in primary court.
- Transportation – The Kapisa Province detention centers and prison lack sufficient vehicles for transporting detainees and prisoners.
- Finances – The detention centers and the prison function on a very low budget. The prison is budgeted AF 50 for prisoner food per day, and prisoners/detainees have inadequate clothing and bedding.
- Facilities – The provincial prison lacks a conference room, functioning bathrooms, a dining room, and areas for recreation and vocational training. There is no facility in which to separately house females or juveniles. District detention facilities are almost uniform in their need of electricity, potable water, clothing, medical clinics, mosques, libraries, and administrative offices.
- Detention Centers - In Kapisa province most of the districts do have detention centers. However, all are in serious disrepair and Kapisa correctional officers requested refurbishing of the existing detention centers and new buildings for those districts that currently do not have detention centers.

- Juvenile Housing – There are no facilities to house juveniles separate from the adult population, there are no areas for recreation or classroom instruction. In addition, there are no teaching materials or skilled corrections staff to deal with the juvenile population. Finally, juvenile prisoners are not provided sufficient clothing or bedding.
- Electricity – Most of the facilities are in need of electricity. Two generators with a 3-kilowatt capacity are needed at the provincial prison.

#### Salary and Personnel

- Staffing – The corrections system is severely under-staffed. The participants noted that there is a need for female correctional staff.
- Salaries – Salaries are inadequate, as the highest monthly salary is AF 4200 (\$84 USD) per month. The vast majority of prison staff receives a salary of AF 50 per day (\$1 USD).

#### Training

- Training – Correction officials all agreed that there is a significant deficiency in training throughout the province, particularly regarding juvenile inmates.

#### Action Items

- Coordinate with CSSP and the Kapisa PRT to assess the priority needs for the Kapisa prison system.
- As part of the Kapisa Provincial Justice Training, include training on the procedural course of action to insure that other justice actors are informed when detainees have reached the maximum length of detention.

### **HUMAN RIGHTS/PUBLIC AWARENESS:**

The public awareness/human rights breakout group included approximately 35 participants. The participants of this group included representatives from the Ministry of Justice (MOJ), the Government Cases department, and provincial government officials. The discussion focused on physical infrastructure, salary concerns, lack of coordination in the justice sector, the shortage of defense lawyers, and training needs.

#### Physical and Financial Infrastructure

- There is a lack of vehicles for the Huquq and Government Cases departments of the MOJ.
- The Huquq department requested a computer and database capabilities.
- The Government Cases officials requested furniture, a generator, and fuel.
- Provincial offices of the MOJ, in particular the Huquq and Government Cases departments, lack sufficient office space and basic office supplies.
- There is no functioning library containing laws or treatises.
- There are no State Cases offices at the district level, meaning that government assets are not protected.

### Salary and Personnel

- Salaries remain below a living wage, and offices are understaffed.
- A lack of female staff results in no government involvement in family matters.

### Coordination

- Breakout group participants reported that coordination between justice sector actors was “weak.”
- District governors fail to summon parties to court proceedings and do not diligently enforce legal decisions.
- Police routinely interfere in civil issues, which are time consuming and results in lost government revenue.
- Human rights officials stated that prosecutors do not follow the criminal code, and defendants are not provided defense counsel. Additionally, prosecution and trial do not occur in a timely fashion.
- Police officials present at the conference denied allegations that defendants are kept beyond the mandated time frame.

### Training

- There is a need for legal and technical workshops covering virtually every legal topic.
- Participants concluded that law libraries and a public awareness campaign would be of immediate benefit.
- There are few, if any, criminal defense lawyers practicing in Kapisa province.
- There is an urgent need for training courses for judges and prosecutors in all facets of the justice system.

### Action Items

- Investigate the feasibility of establishing a law library in the province for use by defense lawyers, human rights workers, and other provincial justice actors.
- As part of the Kapisa Provincial Justice Training, include an introduction to the new bar association in an effort to increase the number of defense lawyers in the province.
- Include discussion on cooperation between courts, the Huquq department of the MOJ, police, and prosecutors during the Kapisa Provincial Justice Training.
- Work with the MOJ’s Kapisa Huquq department to prepare a public awareness initiative.

## **CONCLUSION:**

The Kapisa Provincial Justice Conference (PJC) was attended by almost 100 members of Kapisa’s justice community and resulted in focused discussions regarding the needs and challenges of the Kapisa justice sector. The PJC served not only to provide a sounding board for justice sector officials, but also attempted to challenge participants to brainstorm solutions with assets already at their disposal. Facilitators at the PJC attempted to get participants to prioritize their needs, which had the unintended

consequence of forcing a deeper discussion into the needs of the province. U.S. military representatives present at the conference expressed an interest in funding quick impact projects and training programs for the Kapisa justice sector. JSSP will continue to work with the international community, the U.S. military, and Kapisa justice sector actors to implement follow up justice training program and quick impact projects.



**Participants register on the first day of the Kapisa PJC.**



**Governor Khawaja Abubaker welcomed participants to the Kapisa Provincial Justice Conference and thanked JSSP for organizing the PJC.**



Participants take part in breakout group discussion regarding challenges facing the court system in Kapisa province.



Capt. Stephen Sarnoski, USN, Task Force Cincinnatus, (center) converses with Kapisa Governor Abubaker at PJC on 28 JAN.