

AFGHANISTAN JUSTICE SECTOR SUPPORT PROGRAM
FUNDED BY THE U.S. DEPARTMENT OF STATE / INL AFFAIRS

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 - PROVINCIAL JUSTICE TRAINING

The Justice Sector Support Program (JSSP) held three Provincial Justice Trainings (PJT) in Kunduz on 30 MAR-1 APR 2008, Ghazni on 28-30 APR 2008, and Kapisa on 11-13 MAY 2008. Each of the 3-day trainings was a great success. The participants heard lectures and participated in discussions with speakers from JSSP, the Supreme Court of Afghanistan, the Legal Aid Organization of Afghanistan (LAOA), and the International Legal Foundation-Afghanistan (ILF-A) on gender justice, juvenile justice, criminal procedure, individual rights, the role of defense attorneys, the Police Law, corrections issues, the Advocates Law, and the bar association. Each of the trainings followed a similar format, with small agenda changes made in order to address the individual needs defined in the earlier Provincial Justice Conferences. Gender justice, criminal procedure, and the role of the defense were prominently discussed in all of the trainings. As in past PJTs, the participants took full advantage of the time reserved for discussion and debate. The participants also greatly appreciated the distribution of EUPOL provided *Basics of Afghan Law and Criminal Justice: A Manual for the Afghan Police and Legal Professionals*. This quick-impact project distribution was meant to address the urgent need for legal commentary on Afghan criminal procedure.

Over the course of the three trainings, JSSP has attempted to shift from reliance on outside speakers to utilization of JSSP-trained Afghan Legal Consultants (ALC) as trainers, which has made it possible to maintain more control over the quality of the content for all sections. In addition, the JSSP ALCs will be able to replicate the specific training topics presented during the PJTs in other areas, which will create a more sustainable training pool within AJIS for training throughout Afghanistan as requested by INL.

OPENING SESSIONS: The first day of each training began with the recitation of the holy Koran followed by opening remarks from the provincial governors. The governors all spoke of the importance of rule of law training in their provinces and uniformly thanked JSSP for returning to facilitate the follow-up trainings. They also reminded the participants that the trainings would provide a unique opportunity for the participants to discuss issues together and improve provincial-level cooperation and coordination between the various justice actors.

GENDER JUSTICE: The gender justice training sessions, which were held during all three PJTs, were very well received by the participants, and prompted much discussion. The gender justice topics presented included compulsory marriage, beating and laceration, definitions of violence, “running away”, and equality under the law. A JSSP ALC led each session. The ALC trainers were Mohammad Osman, Massoud Mokhlis, and Angeella Barezai. Each of the trainers had previously gone through a gender justice training for trainers’ session with Lisa Rousso, the JSSP Gender Justice Advisor, which prepared the ALCs not only for the PJTs but also for future participation as trainers in gender justice trainings throughout Afghanistan as required.

Each training session was a success; however, the sessions led by Ms. Barezai were particularly interesting given the added benefit of promoting interaction between the mostly male audience and the female trainer. Ms. Barezai's excellent command of the substantive law along with her energetic training style added much to the discussion. During the session on compulsory marriage, for example, Ms. Barezai discussed the concept of consent at length. During the course of the session there was much participant interaction, including judges who argued that fathers and grandfathers, as guardians for their daughters and granddaughters, have the right to give their daughters in marriage to whomever they see fit. Ms. Barezai quickly noted the relevant sections of the Afghan Constitution and Afghan criminal law, pointing out that such practice is a violation of both. After much debate it became clear that such practice was contrary to Afghan law and that the judges should reform their interpretation of the law. Though it cannot be said that this interaction alone will change provincial justice systems, it seems to be an excellent first step that, if followed up with addition gender justice training, could have a lasting impact on the Afghan legal system.

CRIMINAL PROCEDURE TRAINING: The criminal procedure section of the training was covered by Justice Dinar Khail of the Supreme Court of Afghanistan in the Kunduz training and Mr. Rahmani, a JSSP ALC trainer, in the Ghazni and Kapisa trainings. The criminal procedure training dealt specifically with problem areas of the Interim Criminal Procedure Code and included issues related to pre-trial, trial, and appellate phases of the criminal process.

INDIVIDUAL RIGHTS: The lectures on individual rights were presented by lawyers from LAOA at both the Kunduz and Ghazni trainings. These sections laid out the basic concepts of equality under the law, access to the courts, and the right to public trial. In Kunduz, for example, Provincial Chief Judge Murad Ali Murad took the floor during the discussion to add a few comments on the concept of equality under Islamic law. He stated that Allah almighty created us each with dignity, and we should not disrespect any individual's rights. Men and women are equal and equality before the law is respected in Sharia law. This statement met with agreement from the participants and trainers.

ROLE OF DEFENSE ATTORNEYS: An Afghan defense lawyer from ILF-A led the presentation and discussion on the role of defense attorneys in Afghanistan. The defense lawyers from ILF-A were excited to share their experiences in the field of defense with other justice actors. They told the participants that defense attorneys are playing an important role in ensuring justice in Afghanistan and that a trial could not be fair without a defense lawyer. The ILF-A trainers backed up this statement with reference to Article 31 of the Constitution, which ensures the right to counsel from the moment of arrest to the final verdict. This led to discussions on indigent defense and the problems facing many provinces with no or inadequate numbers of defense attorneys. The discussions then shifted to confidentiality. When asked by the trainers whether a defense lawyer should disclose the fact that his client was a murderer, the participants engaged in a heated debate in each province, with most prosecutors arguing that a defense lawyer should cooperate with the prosecution if he knows that his client is a murderer and the defense lawyers arguing that this was not required by the law.

POLICE LAW: The training section on police actions was presented by LAOA in both Kunduz and Ghazni. This lecture began with a short review of the general role police should play in ensuring public order, individual and public security, protection of individual freedoms, and the protection of property and assets. Thereafter, the trainings focused on specific duties and areas of operation of police. In each training, the discussion focused on police action and coordination with prosecutors. During the Kunduz training Mr. Salangi,

Kunduz Province Police Chief, took the floor in order to explain that the police are conducting an operation called “local passport.” He stated that the police are trying to get as much information on criminal activities as they can from the people around Kunduz and are operating in many districts in Kunduz in order to accomplish this goal. He noted that these operations are vital for the protection of civilians.

CONCLUSIONS: Each PJT received praise from provincial justice actors, the U.S. representatives present, as well as the provincial governors. JSSP also received requests for additional focused training from the participants in all three PJTs. JSSP will continue to develop its training relationship with the justice actors in Ghazni and Kapisa to the extent that INL sees follow up as beneficial. The extremely positive relationships with the relevant actors on the ground in those two provinces have made the idea of future training quite favorable from an implementer’s standpoint. Kunduz now benefits from a permanent JSSP-Regional program and is therefore not in need of similar follow-up at this time. JSSP is currently planning the last two scheduled PJTs in Logar and Panjshir.

PJT PHOTOGRAPHS:



Idrees Aalimi, JSSP Afghan Legal Consultant, addresses the participants during the Ghazni PJT.



Mohammad Jawid Shahban of LAOA discusses the concept of equality under the law with the Kunduz PJT participants.



Angeella Barekzia, JSSP Afghan Legal Consultant, takes questions from the participants during the gender justice training in Kapisa province.