

“No One Should Be Beyond the Law”:
**A Survey of Progress in Building the
Rule of Law in Afghanistan**

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INTRODUCTION

Afghanistan has laid the foundations of a functioning justice system, and foreign aid programs -- the Justice Sector Support Program (JSSP) first among them -- have played a crucial and under-appreciated role. Progress to date has been considerable, though missed by outside observers unaware of conditions at the outset or the improvement in infrastructure, awareness of rights, or women's position. However, Afghan experts are well aware of the changes, credit aid programs supporting the Afghan government with a large contribution, and point to paths for moving forward. They cite progress in the institutional and human structures of justice, as well as in law reform, case management, and women's advancement, though they do not minimize continuing problems. They have specific ideas on how to move forward in all these areas and emphasize listening to Afghans in evaluating progress. If they are heard, and the requisites of planning, funding and better security provided, a more self-sustaining Afghan justice system may become possible.

With years of efforts and billions of dollars expended to rebuild Afghanistan's justice system, this report is an initial attempt to indicate what has changed and how foreign assistance has helped. The aim is to provide an objective assessment of progress and problems in advancing the rule of law in Afghanistan in the past decade, and in particular efforts of the JSSP, a major program to promote the rule of law supported by the State Department's Bureau of International Narcotics and Law Enforcement (INL). This report also examines the issues raised in a report by the Special Inspector General for Afghan Reconstruction (SIGAR), which found insufficient evaluation and evidence of progress of the program, and the challenges facing the JSSP in its next round of programming, due to begin this year or next.

It is based on 15 interviews conducted for Charney Research with leaders and experts in the Afghan justice sector in Kabul, Afghanistan between October 8 and 16, 2016. They included a mix of six government officials, four NGO and aid program leaders, and five legal academics (specializing in either state or Islamic law). They sought to obtain the perspectives of a variety of observers familiar with the justice sector, including aid programs' Afghan government counterparts and others inside and outside government. Interviews were conducted in local languages (Dari and Pashto) and in one case, with an expatriate, in English. Most interviewees were at least indirect beneficiaries of international support, because those intimately familiar with the Afghan justice sector generally have worked in it or interacted with the legal system. However, as will be seen, many expressed uninhibited criticisms of the system, particularly the non-governmental participants.

The study was conducted under the auspices of the Fletcher School of Law and Diplomacy at Tufts University, where Craig Charney, the principal investigator and president of Charney Research, is a Senior Research Fellow. Funding was provided by PAE Associates, the development contractor responsible for implementing JSSP.

Several efforts were made to ensure the impartiality of the research. To avoid biasing their answers to our questions, respondents were not told of the project's relationship to PAE or focus on JSSP, simply that it was a research project on the rule of law in Afghanistan for Tufts. They were contacted by an Afghan facilitator familiar with the justice sector working under contract for Charney Research. They were questioned by professional interviewers from a leading Afghan research agency, D3 Surveys, and

assured of anonymity. The resulting report has been peer-reviewed by three former diplomats familiar with Afghanistan as well as a professor at a leading law school.

This report presents the findings of our study, several side-bars on progress in the sector, and the programmatic implications of the study for JSSP itself. The focus is primarily institutional and procedural, because this has been the focus of justice sector development activity, but substantive aspects are also discussed where relevant. It explores gender issues because of their centrality both in Afghanistan and to law reform efforts there. The research necessarily focused on Kabul, because this is where the ministries and experts are, and because resource limits prevented visits to courts elsewhere. However, the data gathered concern many aspects of legal reform felt throughout the country.

Key findings include:

Progress and Problems in the Rule of Law

- There is broad consensus in Afghanistan's justice sector on what the "rule of law" means: that all, citizens, officials, and government itself, are subject to and governed by law.
- Observers note many advances in implementing the rule of law over the past decade, regarding infrastructure (physical, institutional, legal, and human), rights, and women.
- However, some doubt how far progress has gone. They say the rule of law is circumscribed by widespread insecurity, corruption, and incompetence.
- Resulting problems include violations of rights and an upsurge in trafficking of people.

Responsibility for Progress in the Rule of Law

- Government and foreign donors are seen as the sources of progress in rule of law, while programs (not contractors) are viewed as the actors achieving it.
- Progress is seen as picking up under the Government of National Unity formed in 2014.
- Among donors, the US and USAID were most often mentioned.
- JSSP is the program most often seen as an important and effective, along with IDLO (the International Development Law Organization), which took over some of its activities.

Assessment of JSSP Areas of Activity

1. Organizational Capacity Building

- Afghanistan now has the institutional foundations for a functioning legal system around the country, in terms of organization, finance, and processing of cases and laws, with foreign aid recognized as helping to build it.
- Morale, management and pay, and ethical issues still face the Afghan justice system.

2. Legal Reform

- The Criminal Law Reform Working Group (CLRWG) has nearly finished revising Afghanistan's criminal code, including alternatives to jail, and civil society has been involved in this and other justice sector issues.
- Some respondents argued that the Working Group should become more representative.

3. Integrated Justice Management

- The Case Management System (CMS) is now up and running, tracking most cases in courts around Afghanistan, and those able to use it are satisfied.

- Barriers to using the CMS, including unfamiliarity, connectivity, abuse, and neglect, mean that for some, access to information and documents is still hard.
- 4. Gender Mainstreaming and Protection of Women
- Women have been employed throughout the justice sector and they are better protected both in law and reality.
- Women still are under-represented in Afghan justice, partly due to poor educational opportunities, and lack protection too often outside Kabul.

Evaluating Rule of Law Programs

- Respondents suggested measures for the impact of justice sector programming focused on Afghans' own views of the outcomes of the processes of justice and Afghan public perceptions of them.
- 1. Outcomes evaluation: Within the Justice Sector
 - Execution of court decisions
 - Surveys of beneficiaries of training programs
- 2. Outcomes evaluation: The Justice Sector and the Public
 - Surveys of those involved in the courts (defendants, lawyers, complainants)
 - Survey research among the general public

Issues Moving Forward

1. Training: Training is strongly endorsed, but concerns need addressing regarding targeting, selection, and duration.
2. Gender Mainstreaming: Recommendations on promoting gender mainstreaming focus on employment practices and education and training.
3. Strengthening the Justice Sector: Professionalization is seen as the key issue facing the justice sector, through more training, pay, and merit hiring.
4. Afghanization: Preparing for transition to a self-reliant future is seen as requiring planning, local funding, and greater security for court officials and parties.

PROGRESS AND PROBLEMS IN THE RULE OF LAW

There is broad consensus in Afghanistan’s justice sector on what the “rule of law” means: that all, citizens, officials, and government itself, are subject to and governed by law.

It is striking how all the observers agreed on the meaning of the rule, of law, expressing similar variations of the concept.

- *If we briefly define the rule of law, it means that everyone—from an ordinary citizen to the President—should obey the law and should be responsible for upholding the law. The law should be enforced fairly on everyone (Deputy Attorney General).*
- *The law should rule instead of individual and private armed groups and no one, even the president, should be beyond the law (Head Judge, Primary Court).*
- *“The rule of law in Afghanistan” means that all laws must be enforced and the implementation of legislation and justice should not be influenced by affiliation or nepotism. (Professor, Kabul University).*

No one, even the President, should be beyond the law – Head Judge, Primary Court

The unanimity of perspectives expressed on this point is worth underlining. Despite many divergences on the progress of reform and other legal issues, there is clarity about the objective of legal reform. Contrary to the pervasive myth that Afghans hold traditional values that are hostile to modern ideas, they strongly endorse a concept of the rule of law that would be familiar in the West.

Observers note many advances in implementing the rule of law over the past decade, regarding infrastructure (physical, institutional, legal, and human), rights, and women.

The infrastructure of a functioning legal system has been created from a near tabula rasa. It is easy to forget how close Afghanistan was to the “Year Zero” in the wake of decades of fighting, years of Taliban misrule, and the US-led invasion of 2001. Among many other things, courts were lacking in most of the country, along with other institutions of justice, an up-to-date set of laws, and people with the training and experience to apply them. All these things have changed since 2006.

Physical infrastructure: Courts have been built, established, or refurbished all over the country. *“In the last 10 years we have seen remarkable improvements in the justice sector. For example, the building you are in now did not exist with the same quality it has today. In addition, we did not have buildings for this sector in more than five or six provinces but we now have buildings in 26 provinces out of the 34 provinces in Afghanistan. We have institutions in all of the provinces” (Deputy Attorney General).*

Institutional infrastructure: Ministries, courts, and prosecutor’s offices are functioning and have improved. *“Changes have taken place in the Attorney General’s Office and the number of its qualified and professional officials has increased. Improvements also have taken place in the Ministry of Justice. An independent department of legal protection and support was established in this government body. We have separate trade, civic and penalty courts that are led by qualified and professional judges. The Ministry of Women Affairs as a stakeholder of the justice and judiciary sector did not exist in the past” (Professor, Kabul University).*

Legal infrastructure: Many needed laws have been passed and a new criminal code is almost ready. *“Over the past 15 years, or since the establishment of the interim government in Afghanistan until now, many laws were made and formulated in order to strengthen the rule of law in Afghanistan. I can tell you concisely that a total of 247 laws were formulated by us and ratified by the Parliament and signed by President. A number of laws were approved by legislative decrees. All were published in an official gazette and have become effective” (Director, Ministry of Justice).*

Human infrastructure: Hiring standards now require qualifications for new entrants, while massive training programs have touched thousands of civil servants, judges, and lawyers. *“In the past 70% of employees and officials working for the justice and judiciary sector were high school graduates. Therefore the new leadership of the Ministry of Justice has made a decision that only young qualified and committed persons can be appointed through free competition. We also carried out several programs that provided vocational training to our employees and officials” (Director, Ministry of Justice).* Improvements have been particularly noted among prosecutors. *“The capacity of prosecutors in implementing justice is strong because the number of qualified and professional prosecutors has increased in the justice sector” (Professor, Parwan University).*

In other words, the institutional foundations for a functioning formal legal system – things that simply did not exist or barely existed 10 to 15 years ago – are now in place in Afghanistan. The country-wide scale of the physical reconstruction and human reconstitution of the system is impressive. But the extension of the rule of law involves more than just buildings, offices and staff.

Afghans are more aware of their rights and willing to assert them now than a decade ago. This is noted by several respondents, who said it is giving the rule of law meaning in the lives of ordinary Afghans.

- *The people’s awareness has been significantly raised through the media and the courts. They are coming to the justice organization and they are using their rights. (For example,) people are coming seeking information about separating from their spouse and divorce (Chief Judge, District Court).*
- *Good changes have occurred in this area (public awareness). People have become familiar with the justice and judiciary sector (Professor, Kabul University).*

The progress in this area to date is encouraging. It also suggests that civics or “street law” education in elementary and high schools could further build awareness of legal rights and the legal system, especially for women, traditionally the least educated and assertive segment of Afghan society.

Women in particular are better represented in the legal system and now have protection in law against gender-based violence.

- *In the past, people working for justice sector were not familiar with the word “gender” but now there are gender departments in all sections of the justice sector. Issues of gender have been incorporated in policies and activities of all stakeholders of the justice and judiciary sector. Women have easy access to justice institutions including courts and can hire a lawyer to advise and represent them in government courts.” (Professor, American University of Kabul).*
- *(Protection against gender violence) has improved because government officials attended conferences to learn how to provide more effective services and*

Issues of gender have been incorporated in policies and activities of the justice sector – Professor, American University of Kabul

protect women against violence. A law on violence against women was approved and is now enforced (Professor, Kabul University).

Some think the performance and reputation of the judicial system have improved.

- *(The courts' reputation) has changed because the capacity of the judiciary has increased and its officials are now able to address more cases. Its structure also has extended and the number of its officials increased (Professor, Kabul University).*
- *Since Mr. Halimi became the new Chief Justice and started working, positive changes to justice system have been made, and people are now satisfied with the behavior of administrative and judiciary staff. (Chief Judge, District Court).*

(The courts' reputation) has changed because the capacity of the judiciary has increased – Professor, Kabul

However, some doubt how far progress has gone. They say the rule of law is circumscribed by widespread insecurity, corruption, and incompetence.

Insecurity and violence, attributed to warlords as well as Taliban, are seen as circumscribing the writ of the law.

- *With the ongoing war (against the Taliban) in Afghanistan, the advancement of the rule of law has substantially slowed down (Lawyer, Legal NGO official).*
- *The capacity of justice (institutions) in provinces that are relatively secure has changed remarkably. However, the justice sector is not able to implement laws in provinces where there is no security and where warlords are powerful (Professor, Parwan University).*

Observers outside government still regard corruption, nepotism, and, critically, political interference and impunity as rife in the justice system.

- *There remain corrupt staff in the Supreme Court and Attorney General's office but they go unpunished. Efforts to tackle corruption have improved but we are waiting to see whether the law is executed or not (Lawyer, NGO official).*
- *Officials are still hired in government departments through connections and nepotism. Favoritism, ethnicity, language spoken and affiliation are more important for employing people than accepted rules and regulations in this regard (Professor, Kabul University).*
- *There is a problem of lack of political will: powerful people, high ranking government officials, and corruption are the biggest challenges to the rule of Law. Powerful people are exempt from the rule of law by government (Professor, American University of Afghanistan).*

There is also concern over a continuing lack of skilled professionals despite the training efforts to date.

- *We still have prosecutors that have studied only for between one and two years of school (Professor, Kabul University).*
- *There are challenges regarding management. There is a shortage of skilled personnel (Department director, Ministry of Justice).*
- *In some instances, officials of justice agencies do not treat their clients fairly, and it is mainly because of low levels of education (Professor, Kabul University).*

The impact of rebuilding the justice sector is thus limited in several respects. It is restricted to the towns and provinces under effective government control (with roughly 60% of the population, according to the January 2017 SIGAR report). It is limited by corrupt and politically connected individuals who can interfere in cases. It remains an empty promise when justice personnel handing a case are ignorant of the relevant law and procedures.

Resulting problems include violations of rights and an upsurge in trafficking of people.

Defendants in court often do not receive their rights, even though they are now recognized by law.

- *(Protection of defendants' rights is) weak, very weak, since the accused are counted as criminals right away (Director, Legal NGO).*
- *Respect of the rights of accused is available in the law, unfortunately no one uses it, and thus the accused person cannot get his rights (Lawyer, NGO official).*

In particular, the lack of speedy trials means that accused defendants can languish in jail for months.

Trafficking in persons, particularly people smuggling, has worsened as a problem.

- *Due to insecurity in the country, the trafficking of persons has increased and unfortunately the government has not stopped this yet. So I don't see positive improvements for this problem (Head judge, District Court).*
- *Trafficking in persons is a serious and problematic issue both inside the country and on the regional level (Deputy Attorney General).*

With worsening security and routes opening for refugees to Europe through Turkey and Libya, the tide of Afghan refugees has been second only to that from Syria, increasing demand for people smugglers.

The reconstruction of Afghanistan's justice system over the past decade has been a major accomplishment, despite ongoing challenges. From a situation where there were minimal opportunities for legal redress, the country has rebuilt the courts, supporting justice institutions, code of laws, and corps of legal personnel. In turn, Afghans are more conscious of their rights and willing to assert them, women are better protected, and the reputation of the courts is said to have improved. There remain serious problems – of insecurity, corruption, and professionalism – linked to violations of rights and spreading trafficking. They may also help explain the appeal to some Afghans of the Taliban's swift, if brutal, administration of "justice" as an alternative. Nonetheless, looking back at where things stood in 2006, Afghan experts in the justice sector say progress since then has been undeniable.

RESPONSIBILITY FOR PROGRESS IN THE RULE OF LAW

Government and donors are seen as the sources of progress in rule of law, while programs (not contractors) are viewed as the actors achieving it.

The Afghan government is seen as the prime mover of legal reform, supported by external aid.

- *The government of Afghanistan and its relevant authorities are responsible for these changes (Professor, Parwan University).*

- *The responsibility for these changes is with the Ministry of Justice and government of Afghanistan (Member, High Council, Supreme Court)*
- *Foreign donors and the Afghan state are responsible because they have provided support to the judiciary sector in all aspects including financial and technical (Professor, Kabul University).*

Progress is seen as picking up under the Government of National Unity formed in 2014. *“Changes have happened after the formation of the Government of National Unity; it has carried out reforms in various aspects” (Director, Legal NGO).*

The Minister of Justice and Chief Justice of the Supreme Court are singled out for praise by colleagues in government.

- *The new leadership in the Ministry of Justice is responsible for these changes (Director, Ministry of Justice).*
- *The new Chief Justice has also applied positive changes in the judiciary structure with better allocation of resources (Chief Judge, District Court).*

The Minister of Justice and Chief Justice of the Supreme Court are singled out for praise.

Respondents all felt foreign donors and programs have played a catalytic role in Afghanistan’s justice sector reforms.

- *Compared to 10 years ago, many people from other countries have come to this country and they have brought changes to the justice sector that have been effective (Lawyer).*
- *The Afghan government and the international community are responsible for these changes. The government of Afghanistan, without the financial and security support of the international community, was not able to attain these achievements. Foreign donors, aid organizations, and the government worked together to bring improvements and changes to the justice and judiciary sector (Director, Legal NGO).*
- *There is close coordination between the Supreme Court, Attorney General’s Office, Ministry of Justice, Independent Association of Lawyers, Ministry of Interior, and other stakeholders of the justice sector. International donors and aid agencies have provided us with assistance and support to reform and modify the justice sector (Director, Ministry of Justice).*

The Afghan government, without the financial and security support of the international community, was not able to attain these achievements – Director, Legal NGO

While the acknowledgement of the importance of foreign support is perhaps not surprising, the degree of unanimity in recognizing how international aid has facilitated justice sector reform is striking in a group of interviewees who otherwise have widely varying views on the legal sector.

Among donors, the US and USAID were most often mentioned. Some respondents may have thought all US aid to the justice sector came from USAID, judging by their comments, which referred to activities supported by other American donors, such as court construction, as USAID projects. Other donors repeatedly cited included INL and Germany’s GTZ.

- *There are some donors but USAID's support was very efficient, because USAID supported the justice sector by developing and printing law books, increasing law awareness and funding construction of buildings for courts and prosecutors (Head judge, District court).*
- *The best work is done by USAID and INL (Head, Legal NGO).*
- *I think that USAID has been most effective in strengthening the rule of law in Afghanistan, because most projects of the justice sector are funded by it. Besides, GTZ (German Technical Assistance) also played an important role in this aspect (Professor, Kabul University).*

Several respondents also mentioned assistance from Italy. (*"We have close relations with the Italian system in Afghanistan"* said the head of a legal NGO.) Study trips to the US and elsewhere were noted as well, along with training support from Egypt, Britain, Turkey, and other countries.

JSSP is the program most often cited as an important and effective, along with IDLO (the International Development Law Organization), which took over some of its activities.

The mentions of JSSP were repeated and unprompted: it is clearly well known and well respected by Afghans in the sector. It was mentioned by most respondents, more often than any other program. No one mentioned the program's implementers (PAE), who have succeeded in being low in visibility for Afghans in the sector. Instead, credit has accrued to donors (such as the USAID or the World Bank), and programs they supported were often run together and cited in the same breath.

- *IDLO, JSSP, the World Bank, and USAID have vital roles in the justice sector. JSSP is a great program with which the donors and main members of the sector, including the Ministry of Justice, the Supreme Court, the Attorney General's Office and the Ministry of Interior have worked (Deputy Attorney General).*
- *A program named JSSP works a lot in the justice and administrative sectors (Professor, Kabul University).*
- *USAID, IDLO, and JSSP have provided support to our justice sector and helped it to be reformed. They are our donors that I know (Department Director, Supreme Court).*
- *USAID, JICA (Japan International Cooperation Agency), IDLO, GTZ, JSSP, UNDP (UN Development Program), UNAMA (United Nations Assistance Mission to Afghanistan), and other local and international institutions have cooperated with us (Training advisor, Legal NGO).*
- *International donors and aid agencies including the World Bank, JSSP, IDLO, GIZ, CSSP (Corrections Sector Support Program, also administered by PAE), and UNDP have provided us with assistance and support to reform and modify the justice sector (Director, Ministry of Justice).*

JSSP is a great program, with which the donors and main members of the (justice) sector have worked – Deputy Attorney General

In sum, responsibility for advances in the rule of law is attributed to both the Afghan government and foreign donors. The Government of National Unity is praised for accelerating the progress, and in particular the Minister of Justice and Chief Justice. Foreign aid is seen as a vital catalyst that provided financial, security, technical and administrative support for strengthening the justice sector. The United States is recognized and appreciated by Afghans as the principal donor supporting justice sector reform in their country, with mentions of USAID and, less often, INL support. Gratitude is also expressed for help from the World Bank, Germany, Italy, and other countries.

JSSP appears to enjoy the broadest awareness and highest regard among aid programs, along with IDLO (to which INL moved JSSP's legal training programs in 2013). Among Afghans involved in and knowledgeable about the justice sector, JSSP and IDLO are seen as playing key roles in promoting justice reform. They are the only programs to receive multiple mentions when we asked the Afghan experts which ones have been most effective in strengthening the rule of law. This is a crucial rejoinder to the challenge of the SIGAR report, which concluded that weak evaluation meant there was little evidence of JSSP accomplishments, since absence of evidence is not evidence of absence. As this study has shown, Afghans deeply involved in the field see important changes over the past ten years and credit foreign aid efforts – pre-eminently among them, JSSP (and IDLO) -- along with their government, as helping produce them. Moreover, they see significant gains in the specific areas where JSSP has been active in the last program cycle and will focus in the next. These are the topic of the next section.

ASSESSMENTS OF JSSP AREAS OF ACTIVITY

We asked respondents in some detail about changes in JSSP's four principal areas of activity at present and moving forward, according to the SOW. We did this without making reference the program itself, in order to tap their perspectives on progress and problems in these areas without any bias. The topics examined were organizational capacity building, sparking legal reform, the case management system, and gender mainstreaming and the protection of women.

1. Organizational Capacity Building

In the organizational sphere, JSSP has been active with justice sector institutions, including the Ministry of Justice, Ministry of the Interior, Attorney General's Office, Supreme Court, and Ministry of Women's Affairs. Its work has involved helping officials improve their ability to perform their roles and operate independently. This includes functions such as budgeting, procuring supplies, ethics, communication, staffing, pay grading and merit pay, hiring (including women and minorities), and strategic planning.

Progress

Afghanistan now has the institutional foundations for a functioning legal structure around the country, in terms of organization, finance, and processing of cases and laws, with foreign aid recognized as helping to build it.

Staff in ministries, courts, and prosecutors are getting paid, receiving supplies, preparing paperwork, and otherwise doing their work.

- *Salaries are deposited on time as well as the development budgets are approved on time. So there is no complaint in this regard (Professor, Kabul University).*
- *Procurement is systematic in a way that staff will not face a shortage of stationery or files, even books of laws. In the past, we didn't have access to law materials but now we are provided with enough books and materials related to*

Procurement is systematic. In the past we didn't have access to law materials but now we are provided with enough --- Head judge, District Court

justice rules and human rights as well as trainings. All judges have access to books and materials. (Head Judge, District Court)

- *We now have buildings in 27 provinces; the procedures and prosecution process are simplified and very specific formats have been prepared in this regard (Director, Attorney General’s Office).*
- *Improvements have been made in all areas (of management) during the past five years, due to foreign aid organizations and donors that organize training workshops to build capacity of workers and managers working in the justice sector (Professor, Parwan University).*

Several respondents in government mentioned that budgeting functions are proceeding correctly.

- *A month ago we presented and defended our proposal for the next fiscal year’s budget. No one can deny overall changes in this regard (Director, Attorney General’s Office).*
- *(The training) directorate (of the Ministry of Justice) has its own budget and works in the sphere of planning, budgeting, and obtaining government and donor resources to continue providing vocational training and capacity building of justice sector officials. They are adept at budgeting and spending it effectively in more needed areas.” (Training Advisor, Legal NGO).*
- *The budget is being predicted and proposed on a timely manner, then it is sent for approval by the authorities. (Professor, Kabul University).*

Working capacity in some offices has increased considerably over the period JSSP has been functioning. For example, the ability of the Justice Ministry to process draft laws and regulations has risen dramatically in the past decade. One department director explained, “Afghanistan’s justice sector has changed now compared to 10 years ago. For instance, then capacity of our department officials was so low that during two years we were able to formulate only 30 legislative documents and send them to relevant organs to become laws. However, in 2014, on the basis of requirements of government ministries and departments, we reviewed and modified 91 legal documents and sent them to the parliament for approval.”

10 years ago, in two years we could formulate only 30 legislative documents; in 2014 we reviewed 91 – Department Director, Ministry of Justice

Problems

Morale, management and pay, and ethics issues still face the Afghan justice system.

Staff morale and attitudes in the sector remain problems, though some see them as improving with the arrival of younger and better-trained staff.

- *The staff morale is not where we want it and it has changed, but still very low (Head, Legal NGO).*
- *We cannot be so optimistic about this. There are still some problems that exist with staff morale and their performance level (Deputy Attorney General).*
- *I see a big difference between the young generation and older employees, and they are different in knowledge, behavior and capacity (Professor, American University of Afghanistan).*

Staff morale is not where we want it – Head, Legal NGO

Human resources management and merit compensation also are seen as unsolved challenges.

- *We face many challenges in the sphere of human resources because little progress has been made in this aspect (Professor, Parwan University).*

- *The human resources management and reward is not so good and it has not improved. (Professor, American University of Afghanistan).*

However, some say progress has been made here. *“Those who perform their duties honestly are rewarded for their faithfulness and honesty. However, those employees that pay less attention to rules and have poor performance are deprived of promotion or transferred” (Training advisor, Legal NGO).*

Unethical behavior and corruption are still seen as serious, though improvement is reported, in part thanks to training.

- *Unfortunately we have a culture of law breaking in Afghanistan which is caused by not respecting institutions. I think the situation is worse because people are encouraged to break rules and even government authorities are making illegal rules, so the common people do as they do. There is a big problem in the planning, budgeting, and obtaining of resources as the system is rampant with corruption and mafia involvement (Head, Legal NGO).*
- *In the Supreme Court and Attorney General’s office they are moving towards the right direction. They want to rid their offices of corruption but it will require a lot of energy and more time (Professor, Kabul University).*
- *Those (trained) persons that are aware of law obey it better than those who do not know anything about it (Professor, Parwan University).*

2. Legal reform

The goal of JSSP work in this area is helping establish a clear, constitutional, and effective legislative framework. The center-piece of its efforts has been the Criminal Law Reform Working Group (CLRWG). This group brings together the principal Afghan governmental bodies involved in law reform issues, along with foreign experts. It has been the touch-point for consultation with NGOs on law reform (though they have also been active on other justice issues in direct contact with the relevant agencies). The CLRWG’s major recent achievement has been a drafting of a new Criminal Code to replace that established under the communist regime in 1976, which is soon to be finally promulgated.

Progress

The CLRWG has nearly finished revising Afghanistan’s criminal code, including alternatives to jail, and civil society has been involved in this and other justice sector issues.

The CLRWG is seen as very effective in bringing together for deliberation the key interests involved in reshaping Afghanistan’s criminal laws, a process which is almost done.

- *They are very experienced people. This group has brought positive changes to the law (Deputy head, Legal NGO)*
- *The CLRWG incorporates the Afghan legal community (Lawyer, Head, Legal NGO).*
- *The CLRWG group experts express their views and share their suggestions with us in reforming the criminal law in order to conform to current circumstances in our country. Their proposals and recommendations were taken into account in reforming the criminal law. We held numerous meetings with them in this aspect (Director, Ministry of Justice).*

(The CLRWG) has brought positive changes to the law – Deputy Head, Legal NGO

Alternatives to incarceration (fines, etc) have been incorporated. *“The new Penal Code has taken care of this,”* comments a Deputy Attorney General.

Civil society groups were extensively involved in these discussions, as in other areas of law reform.

- *Through this group (the CLRWG) experts expressed their views and shared their suggestions with us in reforming the criminal law in order to conform to current circumstances in our country. Their proposals and recommendations were taken into account in reforming the criminal law. We held numerous meetings with them in this aspect (Director, Ministry of Justice).*
- *Civil society was established during Hamid Karzai’s government. They are very active and advocate for those who cannot receive their rights. They have good coordination with governmental organizations (Head Judge, District Court).*
- *Civic society organizations are very successful in conducting their activities. They have brought the government under their influence. Civic organizations are always active in controlling government departments and agencies (Professor, Parwan University).*

Problems

Some respondents argued that the Working Group should become more representative.

- There was a complaint that two or three voices dominated the CLRWG’s discussions from one NGO training advisor.
- Several respondents suggested a need to include more interests and groups, including non-lawyers. *“There should be representation from different fields like journalism, literature, health and medicine, and engineering from individuals at different levels,”* commented the head of a legal NGO.

Reforming Afghanistan's Criminal Law

How do you reform criminal law amid misrule, war, and a welter of legal systems? Post-Taliban Afghanistan inherited an archaic, contradictory, and ill-functioning legal system. If Afghans could craft laws responding to Afghan reality while borrowing good ideas from elsewhere, they could have a legitimate, fair, effective legal system.

Working with JSSP, the Criminal Law Reform Working Group (CLRWG) has helped reconstruct Afghanistan's justice sector. The CLRWG was set up in 2006 as a forum where key actors and interests could review draft legislation before it went to parliament. It brings together the Supreme Court, Attorney General's Office, Interior Ministry, and Human Rights Commission, along with the Afghan Independent Bar Association and international organizations, including UNAMA, UNDP, UNODC (the UN Office of Drug Control), and development agencies. JSSP provides its secretariat and technical aid.

For over a year, it met weekly to review a draft Criminal Procedure Code, which went into

effect in 2014. Recently, the CLRWG did a thorough review of a new Penal Code, soon to become law to replace a harsh 1976 predecessor.

“CLRWG will remain an example of how collaboration and the enthusiasm and dedication of a handful of legal professionals can give momentum to sustainable change.”

Whit Mason, former UNAMA Legal Advisor

JSSP's work with the CLRWG offers a case study in how local expertise and will for change can be supported by foreign aid to deliver effective, legitimate reform. As Whit Mason, UNAMA's former Legal Adviser, wrote, “CLRWG will remain an example of how collaboration and consensus are built on the foundations of meticulous work and how the enthusiasm and dedication of a handful of legal professionals can give momentum to sustainable change.”

3. Integrated Justice Management

The major thrust of JSSP work to establish integrated justice management has been the creation of a computerized and networked national Case Management System (CMS) for all court actions. Prior to its creation, access to documentation on legal cases, or simply information on their progress, was extremely difficult to obtain, especially outside the capital. Communications are poor and frequently disrupted, and legal documents, along with copies, printers, and paper all hard to find. The CMS is intended to improve the connectivity, efficiency, and transparency of criminal and civil justice while increasing the access of private individuals and their lawyers to documents.

Progress

The CMS is now up and running, tracking most cases in courts around Afghanistan, and those able to use it are satisfied.

They say it is comprehensive and helpful, improving access to information on cases.

- *This database system is very helpful for all stakeholders of justice sector, especially the Ministry of Justice, because it can help its senior officials to monitor cases more effectively (Director, Ministry of Justice).*
- *The Case Management System, which has been established in some justice and judiciary institutions, is a good system. If this Case Management System is properly utilized, it will be very effective for protecting the rights of the accused (Training advisor, Legal NGO)*

This database system is very helpful for all stakeholders – Director, Ministry of Justice

Problems

Barriers to using the CMS, including unfamiliarity, connectivity, abuse, and neglect, mean that for some, access to information and documents is still hard.

- Some officials and lawyers are not familiar with the system or trained to use it. *“The officials in courts do not know how to use computers; therefore, they should be trained first and then, the security and I.T. system should be improved in order for documents to be saved from deletion and hacking,”* says a Professor at Kabul University.
- Some offices of officials or lawyers lack reliable internet connections or electricity. According to a Department Director in the Ministry of Justice, *“(CMS) has negative aspects as well, because internet is weak and on the other hand we do not have regular access to electricity. Lack of regular access to electricity is one of our big challenges in this respect.”*
- Abuse, theft, and lack of maintenance are also problems. A District Court Judge reports, *the computers are distributed without coordination within the government and people misuse or steal them. Also, the computers need maintenance and there is no one to maintain or repair them.”*

The result is that it is still often difficult to obtain case documents. The deputy head of a legal NGO says, *“Access to information about legal cases in the courts is insufficient. If educated people are hired, then we will see positive changes.”*

Keeping Track of Afghan Justice

Following thousands of cases through courts is a mind-boggling task in a poor country with poor communications, difficult transport, and many jurisdictions. Thus, in post-Taliban Afghanistan, where all Afghans could, for the first time, use the formal legal system, the re-established courts were inundated with cases and tangled in paperwork. At the Attorney General's Office alone, each case had to run through seven different paper registries. Six other agencies that could launch prosecutions all had separate record-keeping systems too. Cases got lost, records were altered, complainants and defendants couldn't follow their cases, and lawyers didn't know where to find information. Unless the justice system got on top of the case flow, Afghans' new-found right to justice would be just a dream.

The solution: government agencies involved in court cases got together in 2009 to launch a computerized Case Management System (CMS). Working with JSSP, they established an online database to track all criminal cases in the country, from arrest to the end of imprisonment.

Pilot projects began in 2009, with a phased national rollout starting in Kabul in 2011 that has now reached 33 of the 34 provinces. In 2014, civil cases were added to the CMS. Over 250,000 criminal cases and 12,000 civil cases have been entered into it. It can be accessed through 520 CMS offices at criminal justice sector facilities throughout the country.

Now, police, prosecutors, attorneys, and families of parties can contact any CMS office to learn about their case. According to a Director in the Ministry of Justice, "This keeps all legal cases safe so no one can make changes to them. This system is very effective at facilitating greater public access to the justice sector."

"If properly used the Case Management System will have an immediate and positive impact on implementing the rule of law in Afghanistan."

Ion Gane, European Union Police Advisor, Afghan Attorney General's office

The CMS began by correcting a major injustice. When a pilot project reviewed 5,000 prisoners' records, it discovered that 128 had been held beyond their sentences -- and they were freed.

Since then, it has become a key means for keeping cases on track as them move through the justice system.

By providing a single funnel for all cases entering the courts, the CMS is turning the flood of demands for justice into a manageable flow. The verdict of Ion Gane, the European Union's advisor to the Attorney General's Office: "If properly used the Case Management System will have an immediate and positive impact on implementing the rule of law in Afghanistan."

4. Gender Mainstreaming and Protection of Women

A major task for JSSP has been gender mainstreaming: the incorporation of gender issues, women's perspectives, and women themselves into the justice sector. Emphases included promoting the integration and advancement of women into the justice sector – thoroughly male-dominated when it began its work – as well as women's protection from violence, trafficking, and other gender-related crimes. This has included the establishment of gender units and the hiring of women throughout the legal bureaucracy and the courts, new legislation on women's protection, the creation of a Legal Rights Department in the Ministry of Women's Affairs, and specialized women's police units, among other measures. It has also involved efforts to work with civil society groups concerned with crimes against women and women's rights as well as training for those in the justice sector to sensitize them to these issues, which received short shrift in the past in training and priorities.

Progress

Women have been employed throughout the justice sector and they are better protected both in law and reality.

Women's offices have been set up and women hired to staff them throughout the legal system, while gender issues have been put on the agenda.

- *In the past, people working for justice sector were not familiar with the word "gender" but now there are gender departments in all sections of the justice sector (Professor, Kabul University).*
- *Females are now hired to work for the justice and judiciary sector. The National Strategy of Afghanistan gives priority to gender and instructs every ministry to establish a gender department. Now all government authorities have gender directorates that make policy for hiring females, because by 2020, the number of women employees must increase by 3% (Training Advisor, Legal NGO).*
- *15 years ago, there were only 15 female employees in our department, but now there are 50% women in our staff. (Director, Ministry of Justice).*

Several respondents noted that Afghanistan had its first female nominee to the Supreme Court named by President Ghani in 2015, although her nomination was rejected by Parliament.

Legal protections for women (particularly the Eradicating Violence Against Women Law) have been improved substantially and begun to show results.

- *Remarkable progress has been made in this aspect. In 2008, a law on violence against women was approved through a legislative decree. Women rights are protected in government departments as well as in public places. It has been decided that in every ministry there should have a committee and representatives of Women Affairs Department and Religious Affairs Ministry must be included in them (Director, Ministry of Justice).*
- *The issue of violence against women in Afghanistan is very critical. However, the amount of violence against women has decreased recently compared to the past (Professor, Parwan University).*

The amount of violence against women has decreased recently – Professor, Parwan University

In Kabul, these provisions were made reality by hiring female investigators and prosecutors as well as setting up women's shelters. The Chief Judge of a District Court says, *"Women's' access to justice has been improved. Now we have a special court in Kabul and provinces named the Eradication of Violence. If a woman complains of domestic violence, the case will be followed seriously by the justice sector and the guilty person will be punished. Moreover, if a woman faces violence she can go to Safe Shelters."*

Problems

Women still are under-represented in Afghan justice, partly due to poor educational opportunities, and lack protection too often outside Kabul.

The Afghan legal system as a whole is still far from gender parity in employment. Despite the progress in employing women, the head of a legal NGO says *"it is not up to standard or the expected level."*

The country's history of poor education of women continues to hamper supply of available candidates. *"The government has always tried to prioritize women by the employment of women in each government department,"* says the deputy head of a legal NGO. *"But women couldn't get access to education for many years because of the Taliban, which highly impacted their presence in government departments."*

Protection of women is often lacking, particularly in towns outside the capital.

- *It is not satisfactory. The government and the supporting countries have worked a lot to improve women's protection, and we see improvement but our expectations are higher and I hope to see more improvements (Chief Judge, District Court).*
- *Unfortunately during these four decades of war and poverty in Afghanistan, people have become violent. The needs of people should be heard and addressed especially in the urban areas where there are too many cases of violence against women. The violence in rural areas has been addressed to some extent (Head, Legal NGO).*

Advancing Women in the Justice Sector

For women to get a fair shake from the law, they must be present as lawyers, prosecutors, judges, and justice ministry staff. In Afghanistan, however, women were barred from those roles until the Taliban's fall in 2001. Thus, even under the new government, women had trouble getting complaints heard and some would not approach courts or police. If women were properly represented in the justice sector, Afghan women and girls could have equal protection under the law, dramatically improving their lives.

As a result, the Afghan government and international aid agencies have worked hard to help integrate women into the justice sector and address gender issues, and JSSP is one of the most important actors in this area. Its aims include mainstreaming gender and improving protection for women in law by promoting their hiring and advancement, along with training and law reform efforts to get women's concerns reflected.

These pushes have yielded major advances in hiring and promoting women in the justice sector. "Remarkable progress has been made in this field over the past 15 years," says a Director in the Ministry of Justice. "The government leadership pays due attention to this issue and instructs us to hire more women."

In 2013, the latest year for which statistics are available, Afghanistan had 153 female judges,

120 female prosecutors, 118 female Justice Ministry staffers, and 335 women lawyers.

The gain these figures represent is vast if we remember the baseline figure for those jobs 12 years earlier: zero.

The government leadership pays due attention to this issue and instructs us to hire more women

Director, Ministry of Justice

Moreover, women now occupy legal posts with real power. In the Justice Ministry, nine women are department heads or deputy heads. Women form the majority of staff in the Ministry's law-framing *Tanqin* division. Herat has the first woman to head a provincial prosecutor's office. Nine specialized police units to combat violence against women, largely female-staffed, were set up in towns around the country, registering over 4,000 cases between 2010 and 2014. Those cases went to a staff of women prosecutors working under the country's first female Deputy Attorney General.

Of course, there is still a long way to go to gender parity in Afghan justice. Women make up about one-sixth of justice sector workers in Kabul and far smaller proportions in the provinces. Law school enrollment trends suggest the biggest constraint on hiring – that females are only one-sixth of the country's lawyers – will ease in the future. But it will take time and further efforts to support gender mainstreaming.

Thus major improvements are reported in the ability of Afghanistan's justice sector to function in the areas where JSSP has been active. There have been big improvements in the capacity of legal institutions, and these are linked to foreign assistance in the eyes of knowledgeable observers. Budgeting and priority-setting take place regularly, and the throughput of justice sector institutions is far greater than a decade ago. Legal reform has been spearheaded by the CLRWG, an institution created and supported by JSSP, resulting in a new Criminal Code. The CMS, also a JSSP initiative, now offers the prospect of bringing access and openness to court processes and documents that were shrouded in darkness. More women have been hired, promoted, and protected, another goal of JSSP.

Yet important challenges still remain in every program area. The administration faces issues in staff morale, human resource management and ethics. The CLRWG can be made more inclusive. Access to the CMS is still difficult for many. And women still have a long ways to go to attain gender parity in the legal system or receive equality before the law. Nevertheless, experts say the picture in all these program areas – administration, legal reform, justice management, and gender -- is dramatically different from that prevailing before JSSP. Demonstrating this concretely, of course, is more difficult – so evaluation will be the topic of our next section.

EVALUATING RULE OF LAW PROGRAMS

Respondents suggested measures for the impact of justice sector programming focused on the processes of justice and public perceptions of justice system outcomes.

Evaluation has been the area of the most severe criticism of JSSP in the SIGAR report, as noted above, in particular for neglecting outcomes and effects. Partly in response, JSSP has stepped up evaluation efforts, including qualitative evaluation, regular application of questionnaires to test institutional progress along a five-stage Maturity Model, and this study as well. The INL Draft Schedule of Work (SOW) for the next phase of the JSSP program has emphasized the need for qualitative and quantitative evidence of progress in every program area, and also invites bidders to propose additional measures for evaluation. Thus we asked our Afghan justice sector respondents how they would suggest measuring the progress of programs to promote the rule of law.

While the existing JSSP evaluations involve qualitative and quantitative measures of organizational development, the recommendations of Afghan experts queried in this study focused more on the justice sector outcomes. Their suggestions concerned looking at outcomes in two areas, within the justice sector and in terms of the relations between the justice sector, writ large, and the Afghan public.

Outcomes evaluation: Within the Justice Sector

- Execution of court decisions: whether court rulings are actually carried out.
- Surveys among beneficiaries of training programs to determine their awareness of the law and the impact of the training on their practice. *“It is important that beneficiaries of rule of law programs are interviewed to find out the impacts of these programs”* said a professor at Kabul University. Measures here could include knowledge, awareness, and practice on key functions, rules, corruption

or abuse reporting procedures, and the like, preferably before and after the training, and with comparison of younger / newer and older / longer serving respondents.

Outcomes evaluation: The Justice Sector and the Public

- Surveys of those involved in the courts (defendants, complainants, lawyers – defense and prosecution) to see their satisfaction with justice sector services and if there is equal treatment and non-discrimination. Another Kabul University professor suggested, “*Research should be conducted with those who have attended courts to measure the court’s efficacy i.e., satisfaction with the court’s services and policies and feeling of the justice sector as a whole.*” These measures could include treatment and satisfaction with outcomes at each stage of the process (eg police, pretrial, interaction with lawyers, plea bargaining, trial, outcome), as well as comparisons by gender, ethnicity, region, etc.
- Survey research among the general public to determine their awareness of their rights, willingness to assert them, and confidence in the formal legal system and informal alternatives (tribal jirgas, Talban “courts.”)
 - *The best indicator is a public opinion survey. The people should be asked if they are aware of their rights and whether they can use their right (Head Judge, District Court).*
 - *The best indicator is public awareness of the rule of law (Member, High Council, Supreme Court).*

The best indicator is a public opinion survey – Head Judge, District Court

Measures in such research could include awareness of specific rights (to complain of abuse, graft, or assault, to seek protection or divorce, etc), willingness to assert them (in imagined situations or in respondent’s experience, barriers to doing so, and confidence in specific legal institutions.) It could compare the reach of and reactions to the official justice system and its informal competitors.

Thus Afghans involved in the justice sector suggest adding outcomes evaluations oriented towards the workings of the justice machinery, and focusing on the experiences of those involved with justice and the attitudes of the general public, to the existing evaluations exploring the changes within justice structures that rule of law programs have developed.

ISSUES MOVING FORWARD

To help understand how JSSP can develop to meet future needs, we asked the Afghan justice sector actors in our study about what needs to be done in the areas where the Draft SOW indicates the program will be active. Looking towards the future of rule of law programming, our respondents offered a number of suggestions to help guide efforts ahead.

1. Training

Training is strongly endorsed, but concerns need addressing regarding targeting, selection, and duration.

- Targeting: One respondent complained that training was often poorly matched to the specific needs of jobholders. *“Yes, to some level they have been effective, (but) the capacity building methods that were used were not very effective because everyone was asked to join without the trainings being relevant to their job. The trainings need better targeting.” (Head, Legal NGO)*
- Selection: Another alleged that nepotism and favoritism were rife in selection for training programs rather than need. *“Officials were introduced to training workshops through nepotism and affiliation, because participants of workshops were provided food and money. Both donors and justice sector stakeholders are guilty. Officials of the justice and judiciary sector must be introduced to these workshops by conducting need assessments.” (NGO Officer)*
- Duration: Some argued strongly for longer term or degree-based programs, and were skeptical of the effectiveness of short-term training workshops. *“I was not in favor of short-term programs, because they are not effective for building and increasing capacity of our officials. Supporting our officials to receive higher education is the only way to achieve our objectives in this aspect” (Director, Ministry of Justice).*

Short term programs are not effective for building and increasing capacity – Director, Ministry of Justice

Unless these issues are addressed, they will tend to blunt the effectiveness of even large resources devoted to training.

2. Gender Mainstreaming

Recommendations on promoting gender mainstreaming focus on employment practices and education and training.

- Employment practices
 - The Ministry of Labor, Ministry of Women’s Affairs, and Supreme Court should coordinate regarding women’s hiring.
 - Require all government agencies to have policies on mainstreaming women.
 - International donors should insert gender issues into all Memoranda of Agreement.
 - Monitoring hiring of women.
 - Facilitating women’ work by providing safe environments, child care, and flex time.
- Education and training
 - Improving education for girls and women in general and concerning their rights.
 - Continued donor support for women’s training in the judicial sector.
 - Incorporate gender issues into law school curricula in Afghanistan.

3. Strengthening the justice sector

Professionalization is seen as the key issue facing the justice sector, through more training, pay, and merit hiring.

- Improving training in law at universities: *“The quality of higher education towards professionalization should be improved from the first class of the university until they graduate” (Head Judge, District Court).*
- Advanced degree programs and scholarships (Master’s, PhD), at home and abroad: *“In order to strengthen Afghanistan’s justice sector institutions, our officials must be supported to receive higher education and obtain Master’s degrees and doctorates. Only in this way, we can build and increase capacity of our employees.” (Director, Ministry of Justice)*
- Increasing pay for judges and prosecutors: *“The main problem of judges and prosecutors is that they receive low salaries. The problems won’t change if we have good prosecutors but the working environment and salaries are not good (Lawyer, Legal NGO member).*
- Merit based hiring in the justice sector: *“Officials are still hired in government departments through connections and nepotism. Favoritism, ethnicity, language spoken and affiliation are more important for employing people than accepted rules and regulations in this regard. Qualified and professional individuals must be given jobs in government agencies through free competition and rivalry” (Professor, Kabul University).*
- Reducing political influence on justice: *“Nobody should be corrupt and receive political protection by the head of judicial and lawyers organizations. The national council, lawyers, and senators interfere and create problems in Afghanistan” (Head, Legal NGO).*
- Providing more capacity building and technology: *“All organizations of the justice sector should be equipped with modern technology and their system should be computerized in order for their performance to increase” (Deputy Attorney General).*

4. Afghanization

Preparing for transition to a self-reliant future is seen as requiring planning, local funding, and security.

Participants in the study had clear ideas about what is needed to make the Afghan legal structure more self-sufficient and thought it an important issue.

- Planning tasks suggested included:
 - Stakeholders develop and specify objectives: *“From my point of view, all stakeholders of the justice sector should specify their strategic objectives. For instance, the Ministry of Justice in light of government policy, and accordance with demands of time and requirements of people, has specified its strategic objectives. We prepared and explained it according to government policies. Now, we are able to design our strategic policies and formulate budgets for our programs. If qualified and professional Afghan experts are hired in this section, there will be no need for expatriates” (Director, Ministry of Justice).*

- Improved inter-agency coordination: *“In order, to strengthen Afghanistan’s justice sector institutions there should be close coordination and mutual support as well as cooperation between all stakeholders of the justice and judiciary sector” (Director, Supreme Court)*
- Strategic planning. *“A strategic plan is required in order to strengthen Afghanistan’s justice sector institutions over the next three to five years” (Deputy Head, Legal NGO).*
- Domestic Afghan funding capacity, including tax collection and reform. *“Special attention should be paid to tax collection and system reform. Our system should be self-reliant. If the budget is supported by foreigners, they would try to reach their goals. The justice system should be independent” (Professor, American University of Afghanistan).*
- Improved security to ensure protection for those working in the courts and those who turn to them: *“Insecurity is the main challenge towards the independence of the justice institutions. If security is improved, all sectors of the government including the justice sector will be able to work independently” (Head Judge, District Court).*

Thus the Afghan experts have clear ideas on how to proceed. Training – across all program areas – should be better targeted, fairly selected, and long enough to make an impact. Further gender mainstreaming requires progress in coordination, policy, employment terms, and education. Professionalization – including better training, pay, and hiring practices – is vital. Afghanization requires planning, money, and security.

In conclusion: this study found that there has been substantial progress in the reconstruction and reconstitution of the Afghan justice sector over the past decade, and that the important contribution made by foreign aid programs – above all, JSSP – is recognized by those involved. However, important challenges remain for the next round of the program, in professionalization, legal infrastructure, and women’s rights, as well as evaluation and self-sustaining development. There is also agreement that evaluations should draw more on how the system is seen by Afghans themselves. Nevertheless, the advances in the institutionalization of the rule of law in a country once without working courts, functioning ministries, trained personnel or up-to-date legislation have been remarkable, the fruit of a common effort of committed Afghans and foreigners.