LESSONS FROM COMMUNITY-BASED MONITORING OF COURTS IN FIVE PROVINCES OF AFGHANISTAN

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EXECUTIVE SUMMARY

Over seven months from October 2016 to June 2017 Integrity Watch Afghanistan and Society Empowerment Organization conducted a Community Court Observation program and monitored 929 trials across Herat, Kandahar, Kapisa, Nangarhar, and Balkh. The overwhelming majority of the trials observed were criminal trials, and they revealed a number of strengths and challenges in the administration of criminal justice at the provincial level. Across the five provinces, there was routine adherence to basic procedural requirements such as properly constituted judicial panels, and properly attired judges. However, there was significant divergence concerning adherence to substantive legal requirements that promote transparency and protect the rights of the accused. Across the five provinces, it was more common to conduct proceedings in the judge’s chambers instead of in an open courtroom as required under law. In the majority of the cases, the verdict was not routinely announced in public in the presence of the accused. In some provinces such as Herat and Kandahar in a majority of cases defendants were informed of their procedural rights as required under the Criminal Procedure Code; however, in Balkh, Kapisa, and Nangarhar there were uneven practices concerning informing the rights of the accused. At a policy level, the data revealed a number of challenges concerning legal representation of the accused, and how the defense attorneys were paid for. Further, across the five provinces, prosecutorial policy revealed a gender bias, as crimes involving direct female victims were rarely prosecuted.

The findings reveal that a number of immediate reforms, as well as long-term policy reforms, must be undertaken to ensure the proper functioning of criminal justice at the provincial level. In the short-term, the Supreme Court must take immediate steps to instruct lower courts that trials must be conducted in courtrooms as required under law and that all accused persons must be informed of their rights prior to the commencement of trials. Over the medium and long-term significant resources must be allocated to ensure that prosecutorial strategies reflect actual crimes that are taking place within each jurisdiction, including crimes where women are the primary victims. Further, steps should be taken to strengthen the legal aid sector and ensure that indigent accused persons have access to adequate legal representation.
1. INTRODUCTION

Strengthening the formal justice sector has been a key priority for successive Afghan governments. In particular, providing oversight of justice institutions is seen as a key component of a well-functioning court system. An overarching goal of the community monitoring programs was to facilitate social accountability of the justice sector. The program sought to raise awareness of local communities and build the capacity of civil society actors to engage in court observation, with a view to improving the transparency of provincial level courts. Further, the program sought to collect data on procedural irregularities and divergence from existing legal framework to document weaknesses in judicial proceedings. Over seven months, Integrity Watch Afghanistan (IWA), Society Empowerment Organization (SEO) monitored 929 trials across five provinces.

The policy note below identifies the background to the study, its methodology for data collection, and discusses the legal, policy, and logistical challenges in the administration of criminal justice at the provincial level. The background section outlines why a court observation program was needed in Afghanistan, and the methodology section describes how the monitoring was conducted in practice. The legal challenges section discusses areas where there were routine adherence to legal principles, and areas where there were divergences from the applicable legal framework. In particular, it establishes that provincial courts routinely adhered to basic procedural requirements but struggled to ensure that more substantive principles that protect the rights of the accused were complied with. The policy challenges section identifies concerns relating to the selectivity of prosecutorial strategy and barriers to accessing defense counsel.
2. BACKGROUND

Since the adoption of the 2004 constitution, the building and strengthening of formal justice institutions has been a key priority for successive Afghan governments. However, over the past decade the judiciary has been consistently viewed as one of the most corrupt public institutions. In part as a result of the lack of trust in the formal dispute resolution mechanisms as many as half of all disputes are resolved through informal dispute resolution mechanisms. Thus policymakers argue that greater oversight of the formal court system will enhance the public’s confidence in the judiciary and help strengthen the rule of law in Afghanistan.

The National Unity Government has made a number of modest inroads into establishing oversight mechanisms for the justice sector. It established a specialized body to prosecute high profile corruption cases known as the Anti-Corruption Justice Centre. The Judicial Surveillance Department of the Supreme Court succeeded in investigating judges and other officials within the judiciary alleged to have engaged in corrupt practices. Between March 2015 and March 2016, the Judicial Surveillance Department arrested and investigated 85 individuals alleged to have engaged in judicial corruption. More recent information received from the Supreme Court indicate that this trend has continued resulting in arrest of 275 individuals including five judges, four prosecutors, 14 defense lawyers, 40 administrative staff and others. In addition, 163 individuals have been given administrative penalties. The government reassigned 602 trial and appellate court judges including all Chief Appeals Court judges in 33 provinces across Afghanistan. Recent information shared by the Supreme Court shows that the number of reassigned people has increased to 2,213 people including head of departments and judges. Court monitoring programs are viewed as additional means of providing oversight to the judicial sector. Community monitoring can help to identify widespread patterns of violations of legal standards and systemic issues that undermine compliance. They can also be tools that help governments develop targeted reform initiatives that address specific issues of non-compliance.

Integrity Watch Afghanistan (IWA), Society Empowerment Organization (SEO), and the United States Institute of Peace developed a multi-year Community Court Observation (CCO) with a view to promoting social accountability of the judicial sector. The COO program was designed with a view to raising awareness and building capacity of local actors to observe court proceedings. The study aimed to collect data on procedural irregularities and to document weaknesses in the judicial proceedings, which could in-turn inform reform initiatives. IWA conducted its component of the COO program from October 2016 to June 2017 across Balkh, Nangarhar and Kapisa and monitored a total of 790 trials; whilst SEO implemented the program in Herat and Kandahar from October 2016 to June 2017 and monitored 139 trials. The observers monitored four civil trials in Kandahar, and all other trials monitored in all five provinces were criminal trials.

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3 According to the Afghan National Survey from 2006 to 2016 Afghans have consistently viewed the judiciary as one of the most corrupt public institutions. See The Asia Foundation, A survey of the Afghan People (2016), 109.

4 Integrity Watch Afghanistan, Mobilizing communities for court watch A study of court trial monitoring program in Bamiyan and Kapisa provinces (2013), i.


7 Ibid.

8 (Aman. Iman Supreme Court communication, January 20, 2018)

9 Ibid.

10 (Aman. Iman Supreme Court communication, January 20, 2018)


12 OHCHR, above n 9, 5.
3. METHODOLOGY

SEO and IWA are Afghan civil society organizations with a focus on implementing rule of law development initiatives and carrying out related research. IWA monitored primary and appellate courts in Nangarhar, Kapisa and Balkh provinces from 1st October 2016 until 30 June 2017. A total of 790 trials were monitored across the three provinces, 184 in Nangarhar, 246 in Kapisa and 360 in Balkh. SEO monitored primary and appellate courts in Herat and Kandahar. SEO monitored a total of 139 trials 91 in Herat and 48 in Kandahar.

As noted above a key objective of the study was to ensure that local actors are engaged in the monitoring process and are equipped to provide a measure of social accountability to the proper functioning of courts. At the outset, SEO and IWA conducted a baseline assessment of the five provinces and identified appropriate districts and courts that could be monitored. In each of the provinces, IWA and SEO mobilized local communities and worked collaboratively with the local communities to select individuals to act as monitors. The local communities identified 110 local monitors based on each individual’s reputation, integrity, standing in the community, and their strong opposition to corruption. Each monitor received training on court proceedings as well as how to conduct and record court observations.

The criteria for selecting trials was that they be at an early stage of the trial. The courts do not publicly release a schedule of cases, thus it was challenging to identify an equal number of civil and criminal cases. Further, given that most civil cases are heard and resolved by the Legal Directorate of Ministry of Justice, they do not proceed to the trial stage. As a result, almost all of the cases monitored were criminal cases. The monitors collected data by completing standardized forms which required each individual monitor to indicate whether or not the court proceedings was adhering to required procedural and legal requirements. The data collected was entered into a central database which disaggregated the information by provincial level. The monitoring process did not gather qualitative data in the form of anecdotes or individual narratives of how proceedings were conducted. The analysis below is based on quantitative data on how frequently each of the procedural and legal requirements were adhered to.
4. KEY FINDINGS

4.1. Legal Challenges

There was significant variation across the five provinces in terms of the extent to which each of the courts adhered to the applicable legal framework and relevant procedural requirements. A number of procedural requirements were routinely adhered to in all five provinces. These included having the judicial panel properly constituted (Figure 1), judges wearing their uniform, and the trials commencing in the required manner under Article 217 of the Criminal Procedure Code (Figure 2).

However, a number of procedural requirements were routinely disregarded across all of the regions. In all provinces majority of the criminal trials observed were heard in the judge’s chambers instead of in open courtroom (Figure 3).

Figure 1: Judicial panels properly constituted

<table>
<thead>
<tr>
<th>Province</th>
<th>Rate of Compliance (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kandahar</td>
<td>83.3%</td>
</tr>
<tr>
<td>Herat</td>
<td>100%</td>
</tr>
<tr>
<td>Balkh</td>
<td>99.2%</td>
</tr>
<tr>
<td>Nangarhar</td>
<td>100%</td>
</tr>
<tr>
<td>Kapisa</td>
<td>99.6%</td>
</tr>
</tbody>
</table>

Figure 2: Compliance with article 217

<table>
<thead>
<tr>
<th>Province</th>
<th>Rate of Compliance (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kandahar</td>
<td>100%</td>
</tr>
<tr>
<td>Herat</td>
<td>99%</td>
</tr>
<tr>
<td>Balkh</td>
<td>94.4%</td>
</tr>
<tr>
<td>Nangarhar</td>
<td>100%</td>
</tr>
<tr>
<td>Kapisa</td>
<td>96.7%</td>
</tr>
</tbody>
</table>

Figure 3: Trials conducted in judge’s chambers

<table>
<thead>
<tr>
<th>Province</th>
<th>Rate of Compliance (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kandahar</td>
<td>100%</td>
</tr>
<tr>
<td>Herat</td>
<td>31.9%</td>
</tr>
<tr>
<td>Balkh</td>
<td>97.5%</td>
</tr>
<tr>
<td>Nangarhar</td>
<td>23.9%</td>
</tr>
<tr>
<td>Kapisa</td>
<td>77.6%</td>
</tr>
</tbody>
</table>

Figure 4: Accused informed of their rights under article 8 of the CPC

<table>
<thead>
<tr>
<th>Province</th>
<th>Rate of Compliance (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kandahar</td>
<td>0%</td>
</tr>
<tr>
<td>Herat</td>
<td>71.4%</td>
</tr>
<tr>
<td>Balkh</td>
<td>39.7%</td>
</tr>
<tr>
<td>Nangarhar</td>
<td>45.7%</td>
</tr>
<tr>
<td>Kapisa</td>
<td>47.6%</td>
</tr>
</tbody>
</table>

Adherence to basic procedural requirements

In all five provinces, judicial panels were properly constituted in the overwhelming majority of cases. Judges routinely wore their uniforms (Figure 5) in all five provinces.

13 Kandahar 83.33%; Herat and Nangarhar 100%; Kapisa 99.6%; Balkh 99.2%.
14 Kandahar 100%; Herat 88.3%; Balkh 89.4%; Nangarhar 96.7%; Kapisa 87%.
Article 217 of the Criminal Procedure Code requires that judges commence judicial sessions by invoking the name of the almighty, and by addressing and identifying the parties to the litigation and their legal representatives. The overwhelming majority of cases in all five provinces also adhered to these requirements. The prosecutor was present in a majority of trials.

Divergence from applicable legal framework

The results from the five provinces varied on their adherence to a number of substantive procedural requirements. Except in Nangarhar and Herat, in a majority of cases in the other three provinces, the trials were conducted in the judge’s chambers instead of in an open courtroom.

In a further indication of the lack of transparency and public accountability in the functioning of provincial courts, there was a significant variation on whether judges publicly announced the verdict in the presence of the accused and their defense attorney. The verdict was publicly announced in the presence of the accused and their defense attorney in all but a handful of cases in Kandahar. However in Herat and Nangarhar a third of the cases the verdict was not announced publicly in the presence of the accused or their lawyer. In Kapisa, the verdict was publicly announced in less than half of the cases. In Balkh, in a majority of cases, the verdict was not announced publicly.

One of the most important procedural rights granted to an accused is under Article 8 of the Criminal Procedure Code which requires that a judge at the outset of a trial inform the accused of their rights during the

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**Figure 5: Judges wore their uniform**

**Figure 6: Prosecutor was present during the trial**

**Figure 7: Trials conducted in open court room**

**Figure 8: Verdict announced publicly in the presence of the accused/ defence attorney**

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15 Criminal Procedure Code, Article 217.
16 Kandahar and Nangarhar 100%; Herat 99%; Balkh 94.4%; Kapisa 87%.
17 Kandahar 100%; Herat 99%; Balkh 89.6%; Nangarhar 98.2%; Kapisa 86%.
18 Nangarhar 76%; Herat 68.1%.
19 Kandahar 0%; Balkh .025%; Kapisa 22.4%.
20 In Kandahar out of 48 trials monitored the verdict was announced publicly in 44 cases (91.7%).
21 In Herat the verdict was publicly announced in only 60 cases out of 91 trials monitored (65.9%). In Nangarhar out of 184 cases monitored only 113 verdicts were announced publicly (61.4%).
22 In Kapisa out of 246 cases monitored the verdict was only publicly announced in 117 cases (47.6%).
23 In Balkh out of 360 cases the verdict was announced publicly in 163 cases (45.3%).
proceedings. The data collected on adherence to article 8 was inconclusive. Courts in Herat had performed best with more than two-thirds of the accused persons being informed of their rights. In Balkh, Nangarhar and Kapisa majority of the accused persons were not informed of their rights under article 8. However, in bulk of the trials for those provinces adherence to article 8 was marked as ‘not applicable’, as the information was not made available to the monitors. In Kandahar, no data was collected on adherence to article 8. Thus it is unclear whether defendants in these trials were formally informed of their rights at any stage of the trial.

The lack of adherence to the procedural rights of the accused is made more problematic given that there was a significant variation on whether the accused had legal representation during the trial. In Nangarhar and Balkh an overwhelming majority of the accused persons had access to defense counsel. However, in Herat and Kandahar, almost a quarter of the accused persons did not have access to defense counsel. In Kapisa only just over half of the trials had accused persons with legal representation.

Accused persons have right to legal representation under both the Criminal Procedure Code and the Afghan Constitution. Data from other studies using a broader sample of individuals have found that defense attorneys are used on average 21% of the time nationally. However, records kept by the national case management systems indicates that defense attorneys are only used in a ‘fraction’ of criminal proceedings. Thus, further research should be conducted on both the prevalence of defense attorneys in criminal proceedings, and to what extent their presence have served to protect the rights of accused persons.

4.2. Policy Challenges

The COO program revealed a number of policy challenges including gender barriers to access to justice, and uneven legal representation for defendants. There was variation across the five provinces in how frequently the accused persons had access to defense counsel. Further, there was also significant variation in terms of how the defense counsel was paid for, whether it was the accused themselves, the government or a non-governmental organization. In terms of gender barriers, there was a clear tendency to prosecute crimes where men were the primary victims.

Access to justice for women

Across the five provinces, there was a clear gender bias in the conduct of criminal prosecutions. The overwhelming majority of the victims across all provinces were male. Out of 929 trials, there were 182 male victims and only 36 female victims. In many cases, the court documents failed to clearly identify victims of the crimes that were being heard. In Nangarhar out of 184 trials monitored there was only one female victim. In Kandahar out of 91 trials monitored there were only five female victims.

Across all provinces, the most commonly prosecuted offenses were related to traffic incidents and robberies. In Herat and Balkh there were one instance in each province where violence against women was prosecuted. In Nangarhar, Kandahar, and Kapisa there wasn’t a single instance where violence against women was prosecuted. It may well be that such disputes get resolved in an informal setting or through community based informal dispute resolution channels. It could

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24 Criminal Procedure Code, Article 8. Article 7 of the Criminal Procedure Code identifies the rights of the accused.

25 Out of 91 cases monitored 65 accused persons were informed of their rights (71.4%). However 26 trials were marked as not applicable.

26 In Balkh out of 360 cases monitored only 143 individuals were informed of their rights under article 8 (39.7%). (205 individuals were marked as NA) In Nangarhar out of 184 trials monitored only 84 individuals were informed of their rights under article 8 (45.7%) (100 were marked as NA). In Kapisa only 117 individuals were informed of their rights under article 8 (47.6%) (128 were marked as NA).

27 Nangarhar 92.4%; Balkh 93.6%.

28 In Kandahar out of 48 trials monitored only 37 accused persons had access to defense counsel (77%), and 10 individuals did not. In Herat out of 91 cases monitored 74 individuals had access to defence counsel (81.3%) and 17 did not.

29 In Kapisa out of 246 trials monitored only 143 accused persons had access to defense counsel (58.1%), and 100 did not. 3 were marked as N/A.

30 The Asia Foundation, above n 5, 112.

31 Ibid.

also be that cultural sensitives prevent victims coming forward and initiating complaints. Further examination needs to be done as to the scope of provincial prosecutorial strategies, and whether they aim to be representative of the pattern, type, and frequency of actual crimes that take place within their jurisdictions.

Access to defence and counsel

Further, there were uneven indicators across the five provinces on whether the accused person had a defense attorney and how the attorney was paid for. Across the five provinces, Kapisa had the lowest level of legal representation for the accused. In provinces such as Balkh, Nangarhar, and Kandahar where most defendants had legal representation, there was variation as to whether it was the government, the accused themselves or non-governmental organizations that paid for the attorney.

Across the five provinces accused persons had paid for their own attorneys in 294 trials; nongovernmental organizations paid for defense counsel in 320 trials, and the government had funded defense counsel in 214 instances. These findings are in line with other studies which have found that nationally on average 54.5% of accused persons pay for their own defense counsel.33 There was no correlation between higher levels of legal representation and funding by any particular source. For example, both Balkh (93.6%) and Nangarhar (92.4%) had higher levels of legal representation compared to the other three provinces. In Balkh majority of defense lawyers were paid for by nongovernmental organizations, whereas in Nangarhar a majority of lawyers were paid for by the accused themselves. In Kapisa which had the lowest level of legal representation for accused persons (58.1%), most of the defense lawyers were paid for by the government.

The Afghan Ministry of Justice, as well as non-governmental organizations, provide legal aid services for indigent defendants at the provincial level as defense lawyer are simply not available in many parts of the country. Thus further research needs to be conducted on how defense lawyer were retained, and whether defendants supplemented the income of legal aid attorneys already receiving a salary from the government or a nongovernmental organization.34

Access to defense lawyer is not merely a legal and constitutional right but at a policy level an essential feature of ensuring fairness of criminal proceedings. As referred to above there was significant variation as to whether the defendant was informed of their procedural rights at the outset of the proceedings. Having a defense counsel is essential to ensuring not merely that the defendant is informed of their rights, but that they are in practice upheld and protected throughout the course of criminal proceedings.

The lack of defense counsel in criminal proceedings undermines the criminal justice system and leaves the accused in a highly vulnerable situation with little knowledge or ability to take advantage of the procedural safeguards available to them. A further study should examine the extent to which criminal proceedings protect the numerous rights afforded to the accused under article 8 of the CPC.

See for example The Asia Foundation 2016 survey makes a similar claim: The Asia Foundation, above n 3, 112.
4.3. Logistical Challenges

The program also identified a number of logistical challenges that undermined both the work of the monitors as well as the operation of the courts. The prevailing security conditions in the provinces required that extra security measures be implemented prior to the entering of the court premises. The program found that these measures, including full body check undermined the public’s willingness and ability to participate in the criminal justice system. Some of the monitors found the judges to be reluctant to be observed by third parties.

The program found that a number of courtrooms lacked adequate facilities. In some instances, courtrooms even lacked basic furniture. Lack of adequate facilities may have contributed to the high number of trials being conducted in the judges’ chambers instead of in an open courtroom. Further, in Herat and Kandahar, multiple trials were scheduled to be conducted simultaneously forcing judges to reduce the amount of time given to each case.

Further courtrooms were not always adequately staffed with the presence of court writers. In Balkh and Kapisa the court writer was present only 84.1% and 65.4% respectively. Whereas in Herat, Kandahar, and Nangarhar the court writer was routinely present.

35 In Balkh the court writer was only present in 303 out of 360 proceedings. In Kapisa the court writer was only present in 161 out of 246 proceedings.
5. IMPACT ON THE BROADER COMMUNITY

With a view to raising awareness of the workings of the judiciary, the study engaged community members through a number of outreach activities including community mobilization, mock trials, and public awareness initiatives. The program was able to achieve the most impact through the direct participation of the court monitors. Majority of the monitors indicated that they had increased their knowledge of court proceedings as a result of taking part in the study.\(^{36}\) Further most monitors indicated that they had discussed their experiences and shared the knowledge they had gained with other community members.\(^{37}\)

The study also conducted three community meetings in Herat and Kandahar which brought together local monitors, members of civil society as well as the judiciary. The members of the judiciary were presented with ideas for reform and recommendations to enhance judicial proceedings, and provided with updates concerning the progress of the court monitoring program.


\(^{37}\) Ibid.
Despite the extreme security conditions and the logistical challenges the provincial level courts across the five provinces routinely conducted criminal trials in a manner that adhered to a number of legal and procedural requirements. These include routinely having properly constituted judicial panels, and properly commencing trials with the invocation of the almighty and identification of the parties. However, there was significant variation across the provinces concerning provisions that promote the transparency of courts and protect the rights of the accused. Across all five provinces, judges routinely failed to conduct trials in open courtrooms, and instead preferred to conduct them in judges chambers. Further, in many instances, judges failed to publicly announce the verdict in the presence of the accused and their lawyer. The presence of prosecutors throughout the trials were also inconsistent across the provinces.

Across all five provinces, there was uneven evidence that the accused was routinely informed of their rights prior to the commencement of proceedings as required under article 8 of the CPC. Further, except for Balkh and Nangarhar, defendants did not routinely have legal representation. Despite the presence of government and nongovernmental defense lawyers, most accused persons paid for their own legal representation. The findings above have a number of policy implications, some of which can be addressed immediately whilst others will require substantial resources and institutional will over the long term. The Supreme Court and the Ministry of Justice should take immediate action to ensure that judges conduct trials in open courtrooms. The Supreme Court should also instruct lower court judges on the importance of publicly announcing the verdict in the presence of the accused as required under law.

In order to ensure the proper administration of criminal justice, as well as adherence to the Afghan constitution, it is essential that immediate action is taken to ensure that relevant provincial-level authorities are trained to ensure that trials do not proceed unless the accused is properly informed of their rights, and have adequate legal representation. Over the medium and long-term significant resources and institutional will must be deployed to ensure that the criminal justice process serves the needs of the broader community at large. At a policy level, there is a clear gender bias in terms of the prosecutorial strategy at the provincial level. Thus further steps need to be taken to ensure that women are able to access the formal justice system, and that police as well as prosecutorial authorities are trained and adequately equipped to address crimes where women are the primary victims.
7. RECOMMENDATIONS

Attorney General’s Department

- Review prosecutorial strategies at the provincial level to ensure that the number and types of crimes being prosecuted reflect the nature and patterns of crimes taking place within the jurisdiction.
- Investigate and initiate increased numbers of prosecutions of crimes involving direct female victims.
- Provide policy guidance, training, and resources to provincial level police and prosecutorial staff to ensure that female victims are empowered to report crimes to formal authorities.
- Routinely collect data on the gender identity of victims in criminal prosecutions.
- Ensure that prosecutors are routinely present during the course of the criminal proceedings.
- Ensure that provincial level legal aid lawyers are accessible to indigent defendants and that the latter are not supplementing their income with financial contributions from the defendant.

Judiciary

- Raise awareness among the judiciary, especially at the provincial level of their legal obligations, as well as the public interest in conducting trials in an open courtroom.
- Instruct judges on the importance of ensuring that the accused is informed of their rights under article 8 of the Criminal Procedure Code, and article 31 of the Constitution.
- Ensure that court documents properly identify the gender identity of victims.
- Ensure that courtrooms are properly staffed and resourced.
- Facilitate training among the judiciary that emphasizes the importance of community participation in the work of the courts.

Civil Society Stakeholders

- Collect better data on the gender identity of victims in criminal prosecutions.
- Conduct further studies on to what extent the rights of the accused are protected during the course of criminal proceedings.
- Facilitate greater media coverage of court proceedings.
- Ensure greater support for legal representation for accused persons, and that legal aid lawyers provided by non-governmental organizations are not supplementing their income with additional financial contributions from indigent defendants.

Donors

- Support Afghanistan’s legal aid program, and ensure its accessibility to provincial level defendants.
- Support further research into the effective functioning of provincial level criminal proceedings.

Community Court Observation Programs

- Ensure that a greater number of civil cases are observed. Given that most civil cases are being resolved without proceeding to the trial stage, explore options for extending the monitoring program to the Legal Directorate of the Ministry of Justice, where civil cases are resolved at an early stage.
- Liaise closely with prosecutors and ensure that crimes involving primary female victims are observed.
- Liaise closely with prosecutors and judges to ensure that all relevant data is recorded, even when court documents fail to include such information, for example, the gender identity of victims.
- Collect qualitative data on how rights of the accused are being protected during the court proceedings.
## APPENDIX A

<table>
<thead>
<tr>
<th></th>
<th>Kandahar (48)</th>
<th>Herat (91)</th>
<th>Balkh (360)</th>
<th>Nangarhar (184)</th>
<th>Kapisa (246)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Judicial panels properly constituted</strong></td>
<td>40 (83.3%)</td>
<td>91 (100%)</td>
<td>357 (99.2%)</td>
<td>184 (100%)</td>
<td>245 (99.6%)</td>
</tr>
<tr>
<td><strong>Judges wore their uniform</strong></td>
<td>48 (100%)</td>
<td>83 (88.3%)</td>
<td>322 (89.4%)</td>
<td>178 (96.7%)</td>
<td>214 (87%)</td>
</tr>
<tr>
<td><strong>Compliance with article 217</strong></td>
<td>48 (100%)</td>
<td>90 (99%)</td>
<td>340 (94.4%)</td>
<td>184 (100%)</td>
<td>238 (96.7%)</td>
</tr>
<tr>
<td><strong>Prosecutor was present during the trial</strong></td>
<td>48 (100%)</td>
<td>89 (98%)</td>
<td>320 (88.9%)</td>
<td>180 (97.8%)</td>
<td>213 (86.6%)</td>
</tr>
<tr>
<td><strong>Trials conducted in open court room</strong></td>
<td>0 (0%)</td>
<td>62 (68.1%)</td>
<td>9 (.025%)</td>
<td>140 (76%)</td>
<td>55 (22.4%)</td>
</tr>
<tr>
<td><strong>Trials conducted in judge’s chambers</strong></td>
<td>48 (100%)</td>
<td>29 (31.9%)</td>
<td>351 (97.5%)</td>
<td>44 (23.9%)</td>
<td>191 (77.6%)</td>
</tr>
<tr>
<td><strong>Verdict announced publicly in the presence of the accused/ defense attorney</strong></td>
<td>44 (91.7%)</td>
<td>60 (65.9%)</td>
<td>163 (45.3%)</td>
<td>113 (61.4%)</td>
<td>117 (47.6%)</td>
</tr>
<tr>
<td><strong>Accused informed of their rights under article 8 of the CPC</strong></td>
<td>NA</td>
<td>65 (71.4%)</td>
<td>143 (39.7%)</td>
<td>84 (45.7%)</td>
<td>117 (47.6%)</td>
</tr>
<tr>
<td><strong>Defense counsel present</strong></td>
<td>37 (77%) (10 no)</td>
<td>74 (81.3%) (17 no)</td>
<td>337 (93.6%) (22 no)</td>
<td>170 (92.4%) (10 no)</td>
<td>143 (58.1%) (100 no)</td>
</tr>
<tr>
<td><strong>Person/ Organisation that paid for defense counsel</strong></td>
<td>NGOs 30</td>
<td>NGOs 4</td>
<td>NGOs 185</td>
<td>NGOs 9</td>
<td>NGOs 23</td>
</tr>
<tr>
<td><strong>Accused</strong></td>
<td>Accused 4</td>
<td>Accused 46</td>
<td>Accused 74</td>
<td>Accused 155</td>
<td>Accused 41</td>
</tr>
<tr>
<td><strong>Gov</strong></td>
<td>Gov 5</td>
<td>Gov 18</td>
<td>Gov 104</td>
<td>Gov 8</td>
<td>Gov 79</td>
</tr>
<tr>
<td><strong>N/A 9</strong></td>
<td>N/A 23</td>
<td>N/A 21</td>
<td>N/A 12</td>
<td>N/A 103</td>
<td></td>
</tr>
<tr>
<td><strong>Number of male victims</strong></td>
<td>42</td>
<td>32</td>
<td>41</td>
<td>39</td>
<td>35</td>
</tr>
<tr>
<td><strong>Number of female victims</strong></td>
<td>5</td>
<td>10 [44 N/A]</td>
<td>10 [24 N/A]</td>
<td>1 [33 N/A]</td>
<td>10 [25 NA]</td>
</tr>
</tbody>
</table>
About Integrity Watch Afghanistan

Integrity Watch is an Afghan civil society organization committed to increasing transparency, accountability, and integrity in Afghanistan. Integrity Watch was created in October 2005 and established itself as an independent civil society organization in 2006. The head office of Integrity Watch is in Kabul with provincial programmatic outreach in Balkh, Bamyan, Herat, Kabul, Kapisa, Kunduz, Nangarhar, Paktia, and Parwan provinces of Afghanistan.

Over the last decade, Integrity Watch’s work focused on: Community Monitoring, Research, and Advocacy.

Ever since its establishment, Integrity Watch has tried to encourage active citizenship and community mobilization through its programs. The community monitoring work included development of community monitoring tools, mobilizing and training communities to monitor infrastructure projects, public services, courts, and extractives industries.

The research work focused on policy-oriented research measuring trends, perceptions and experiences of corruption and covering wide range of corruption related issues including security and justice sectors, extractive industries, public finance and budget management, and aid effectiveness. The objective is to develop new, ground-breaking empirical research in order to set the agenda, influence decision-makers, bring to the public attention non-documented and un-explored issues.

Integrity Watch has taken up a pioneering role in advocating for knowledge-based decision-making and informed public debate on corruption and integrity issues. The advocacy work includes facilitation of policy dialogue on issues related to integrity, transparency, and accountability. IWA’s policy advocacy has been to examine accountability of the government and service providers to the communities they serve. The issues focused on to date are access to information, budget transparency and accountability, aid transparency and effectiveness, effective public service delivery, and anti-corruption.

About Society Empowerment Organization

Society Empowerment Organization (SEO) was established with the aims of community development, good governance, Democracy building and capacity building. SEO therefore undertakes its projects on people concerned self-help basis, with proper community participation during project phases including identification, formulation, implementation, project maintenance and evaluation. SEO has been quite successful in a considerable number of projects and has the honour to work with donors including LGCD/ARD/USAID, NSDP/IOM, AWLF/UNIFEM, UNDP, ASGP/Creative Associates, US Embassy, USIP/ INL, AHRC and currently implementation the WIPS grant of AWDP/Creative Associates/USAID. The projects that implemented are focused on Legal research, legal education reforms, access to justice, civic education, employment, skills for employment and placement, vocational and marketing training, BDS, basic education, legal consultation.

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