

Legal Certainty for all Citizens

Since 2002, the German Government has been working with the Netherlands and Finland to assist Afghanistan with developing an effective justice system. While significant progress has already been made, there is still more work to be done to guarantee the rule of law for citizens in rural and urban areas alike.



Situation

After the fall of the Taliban regime, a new Constitution was adopted in 2004, laying the foundations for the rule of law. However, there are a number of issues when it comes to implementing the provisions of this Constitution. Many staff of judicial institutions such as the Afghan Ministry of Justice, the Bar and the Supreme Court need further professional training. There is also a lack of coordination between the various judicial institutions. As a result, Afghan citizens frequently have no or only limited access to justice, and no legal certainty. Several legal systems exist alongside one another in Afghanistan – the traditional, Islamic and parliamentary systems of law. Some Afghans continue to put their trust in purely informal structures and are prepared to accept legal uncertainty where they have no alternative.

Objective

The project seeks to assist the Afghan Government to guarantee legal certainty to all of the country's citizens. Consequently, it is important for the judiciary and the police force to act in accordance with the Constitution.

AT A GLANCE



Activities in the provinces Balkh, Samangan, Baghlan, Kunduz, Takhar, Jowzjan, Herat, Badakhshan.

Programme: Promotion of the rule of law (RoL)

Commissioned by: German Federal Ministry for Economic Cooperation and Development (BMZ), Ministry of Foreign Affairs of the Kingdom of the Netherlands, Ministry for Foreign Affairs of Finland

Partner: Afghan Ministry of Justice

Implementing organisations: Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

Provinces: Badakhshan

Provinces: Baghlan

Provinces: Balkh

Provinces: Herat

Provinces: Jowzjan

Provinces: Kunduz

Similarly, the government's reforms and legislative measures must conform to the law. If citizens are to assert their rights, then they need to be familiar with these rights, in both rural and urban areas. Steps must be taken to prevent and actively combat corruption.

Measures & Results

With support from the programme, the quality of legal advisory services has been improved and these services have been extended to other regions of the country. As a result, citizens are able to find out about their rights and assert them. Civil cases can be resolved in dispute resolution offices (*Huquqs*). Staff at the *Huquq* offices are provided with training, legal texts, specialist literature and mentoring services. Due to their increased presence, professionalism and impartiality, they now enjoy greater acceptance among citizens. Since 2013, the mediators have handled over 80,000 cases. Additional *Huquqs*, offices of the public prosecutor within the provincial branches of the Afghan Ministry of Justice, and meeting rooms in courts and prisons for the provision of legal advice are all making it easier for the public to access appropriate legal support. Furthermore, because lawyers can now complete their Bar exams locally, the number of registered lawyers in Kunduz, for example, has increased from 12 to 85 since 2011; 11 of them are women. Graduates of the Bar exam in the neighbouring province of Takhar have even set up their own office.

Survey findings also confirm that the police force and the public authorities are becoming significantly more responsive to the needs of citizens. Mutual understanding and trust are slowly growing between the police and the public. Since 2012, over 13,000 police officers have taken part in training courses on legal topics and everyday issues such as cooperation between men and women and sensitive interaction with all population groups. This is enabling them to carry out their duties more effectively. With support from the programme, conflict resolution forums are being organised between representatives of local communities and public authorities, and complaints boxes are being provided. These forums are run by the Trained Civil Servants programme established by the Afghan Ministry of Interior Affairs. One third of those participating in the discussion forums are women.

Information campaigns on legal topics have been run in several formats, including in schools, on the radio, through TV adverts, at conferences and as theatre performances, in order to educate men and women about their rights. All law and sharia faculties in the northern provinces have been provided with supplementary specialist courses, legal texts and specialist literature, and have now organised over 150 courses on legal topics and career entry, run by Afghan legal practitioners and experts. The programme also offers particular support to female law students, primarily in the form

Provinces: Samangan

Provinces: Takhar

Programme objective: Create legal certainty for citizens by advising Afghan institutions and establishing rule-of-law systems for dispute resolution.

Overall term: April 2003 – May 2021

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- Day-to-Day-Business in Judicial Institutions Up Close
(<https://www.ez-afghanistan.de/en/story/day-day-business-judicial-institutions-close>)
- Fact sheet: Legal Certainty for all Citizens
(<https://www.ez-afghanistan.de/sites/default/files/2017-ROL-EN.pdf>)

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of internship programmes, to help them gain entry into the profession. Legal clinics enable students to gain a practical insight into working life, allowing them to work on real cases and conduct fictional court hearings.

Since 2015, advisory services and dialogue forums have also been building the capacities of civil society organisations working in the areas of children's rights, legal education and anti-corruption to organise their own activities and make their views heard. For example, women in the provinces Badakhshan and Balkh can address their concerns to Gender Focal Points which have been trained by civil society organisations to provide appropriate advice. In Kabul, members of the Afghan Women's Network and staff from the Ministry of Women's Affairs are taking part in training and workshops on judicial issues. These measures encourage them to publicly advocate for the interests of women.