



The Paradox of Reconstruction: Why Justice and Police Reforms Failed in Afghanistan (2001–2021)

Ali Ahmad Taniwal*

Research Scholar

Department of Political Science

Aligarh Muslim University, Aligarh, (India)

Abstract:

This paper examines reasons behind the failure of justice and police sector reform in Afghanistan in the decade of 2001-2021 which did not manage to set up strong independent judiciary and law enforcement systems. The findings show that from the outset donor countries allocated resources to the military sector to the detriment of the justice and police sectors, resulting in chronic underfunding, weak infrastructure and untrained personnel. With rising insecurity, the police became more and more militarized, pulling them away from their core mandate of policing. Reforms to professionalize the force post-2013 were undercut by declining aid and deteriorating security. Continued corruption, a lack of coordination between donors, the capture of justice institutions by warlords and poor coordination between agencies further undermined public confidence and pushed Afghans into traditional dispute resolution mechanisms and, in contested areas, Taliban shadow courts.

Keywords: Afghanistan, justice sector reform, rule of law, corruption, Taliban shadow courts.

Introduction:

For an average individual, justice may signify appropriate retribution for an offence. For a philosopher, justice may signify morality. For a lawyer, justice may signify the enforcement of the rule of law. The notion of justice is not fixed; it is a dynamic concept. In popular speech, justice signifies the concept of receiving what one merits, encompassing fairness, moral righteousness, and equality (Parnami 2019). For the Islamic Republic of Afghanistan, justice meant equality before the law, the presumption of innocence, right to legal counsel, and protection of basic human rights (The Constitution of Afghanistan 2004).

Afghanistan's formal justice system had been progressively dismantled during more than two decades of conflict before 2001 initiatives. The communist coup of 1978, the Soviet occupation, the subsequent civil war among the mujahideen factions, and Taliban rule collectively destroyed much of the country's legal infrastructure, leaving behind a fragmented legal order characterized by damaged institutions, untrained legal professionals.

The justice sector of Afghanistan was consisted of the Afghan National Police (ANP), the Attorney General's Office (AGO), the Judiciary and Courts, and the Ministry of Justice (MoJ). ANP was responsible for the discovery and identification of crime under the article 134 of the 2004 constitution. And this article further, made responsible AGO for investigation and prosecution of crime (The Constitution of Afghanistan 2004). Chapter 7 (Articles 116 to 135) of the Constitution defined the judiciary as consisting of the Supreme Court, Appeals Court, Primary Court, the General Directorate of Administration, and Central Departments (Articles: 116-135 The Constitution of Afghanistan 2004). The judiciary was independent under Article 116, and its authority was regulated by the Law of Structure and Authorities of Courts, endorsed in 2005. Courts handled civil cases under the Civil Law and criminal cases under the Penal Code. Article 117 (Article: 117 The Constitution of Afghanistan 2004) granted the Supreme Court the highest judicial power, and the High Council within the Supreme Court served as the senior-most body of judicial power, with duties including interpretation of laws, revision of court decisions, proposing new legal frameworks, reviewing cases of restitution, authorizing case transfers between courts, and initiating capacity-building programs for judges. the Supreme Court dealt with all civil, commercial, general criminal, public and military crimes, and crimes against public security and interest. The ministry of justice was responsible for organizing and developing legislative affairs and for consolidating the rule of law. Its Directorate of Huqoq was where civil cases began and where both civil and criminal cases ended, and the Huqoq Offices ensured that court decisions were implemented.

From the very beginning, the international community viewed the justice sector as the second priority. Until the beginning of 2005, only 2 to 4 per cent of the Security Sector Reform (SSR) funds were used for justice reforms. Although after 2012 the Afghan government and its allies took some steps to address shortcomings related to infrastructure, finances, and professionalism, after 2014, foreign aid decreased, and insecurity increased. In the end, besides these two factors, systemic corruption, influence of politicians and warlords, uncoordinated donor strategies, weak collaboration among justice institutions, low accessibility of rural populations, and the competing presence of customary and Taliban justice systems prevented the formal justice system of Afghanistan from providing effective, accessible, and sustainable justice to most Afghans.

At the beginning Afghan police was intentionally militarized, which shifted there focus from main responsibility (discovery and identification) to fight with Taliban and other insurgent groups. After 2013, a process was started to shift the focus of ANP from fight to its original responsibility. But at that time international aid was decreased and insecurity increased which resulted to fail all the reforms and till last of the Republic, police remained militarized. Besides this, ANP was grappling with major challenges. These hurdles include corruption, high attrition rates, lack of support, and divided loyalties to warlords, drug traffickers, and powerbrokers, and the cooperation among ANP and different sections of the judiciary was very poor. These obstacles have seriously undermined law enforcement efforts in the country.

The study uses a qualitative historical case study method to examine justice and police institutions building in Afghanistan from 2001 to 2021. The study uses secondary data from official reports, government documents, legislation, international organisations, and academic literature to analyse, through process tracing and thematic analysis, how institutional reforms have evolved and why they failed to establish sustainable rule-of-law institutions.

Reconstructing the Justice System:

After two decades of war, the United Nations arranged a conference “the Bonn Conference” in Germany and invited key factions involved in war “out of the Taliban and Hizb-e Islami led by Gulbaddin Hekmatyar” to end the war and build a new state. This conference resulted in the Bonn Accord. As per Annex I of the Bonn Accord, security and law and order throughout Afghanistan were the responsibility of Afghans (Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions 2001). To fulfil this responsibility, the Afghan

Interim Authority needed an armed force, police, and judiciary, which were completely eradicated by two decades of war.

To build these sectors, international donors at the Group of Eight (G8) donor conference, which was held in Geneva (2002), made a decision. The Geneva Conference laid the foundation of the Security Sector Reform (SSR) agenda and defined a model for donor assistance. Instead of creating one big, unified plan to fix security, donor countries decided to split the work up, giving each major donor nation its own specific area to lead (Murray 2011). The security sector reform was divided into five pillars/parts with one lead nation assigned to each part to oversee and support reforms. Under this plan, Japan and United Nations were assigned to Disarmament, Demobilization, and Reintegration (DDR); the United States was assigned responsibility for the military; Germany, the police; Italy, the judiciary; and Britain, counternarcotics. Although there were logical connections among the five pillars of SSR, the donor nations initially set about implementing reforms in their assigned arenas without much coordination or joint planning.

At the time of the Afghan Interim Authority (AIA), Afghanistan's formal justice system was rebuilt around institutions based on positive law and Islamic law (sharia law), comprising the Supreme Court, the Attorney General's Office, the Ministry of Justice, the police, and the prison service (Wardak 2016, 150–51). The 2004 Constitution established a mixed legal system incorporating constitutional law, Islamic law, and customary legal traditions while creating a three-tier judicial structure consisting of the Supreme Court, Courts of Appeal, and Primary Courts. The Constitution also provided the legal foundation for subsequent judicial reconstruction through Articles 3, 94, 116, and 130, (Articles: 3, 94, 116, 130. The Constitution of Afghanistan 2004) which collectively defined the relationship between Islamic law, statutory legislation, and judicial authority. Alongside constitution, the Judicial Reform Commission was tasked with reviewing legislation, rebuilding judicial institutions, and coordinating legal reform, while the Ministry of Justice, the Attorney General's Office, and the Supreme Court gradually resumed their institutional functions with extensive international support.

The justice sector of Afghanistan was consisted of the Afghan National Police (ANP), the Attorney General's Office (AGO), the Judiciary and Courts, and the Ministry of Justice (MoJ). ANP was responsible for the discovery and identification of crime under the article 134 of the constitution. And this article further, made responsible AGO for investigation and prosecution of crime. Chapter 7 (Articles 116 to 135) of the Constitution defined the judiciary as consisting of the Supreme Court, Appeals Court, Primary Court, the General Directorate of Administration, and Central Departments. The judiciary was independent under Article 116, and its authority was regulated by the Law of Structure and Authorities of Courts, endorsed in 2005.

At the start, the justice sector was given second priority (Afghan National Army was the first priority) by donor countries and the Afghan side as well. At the December 2002 Rome conference, the international community pledged a mere \$30 million for the rehabilitation and reconstruction of Afghanistan's entire criminal justice system (Royal United Services Institute 2009, 125). In 2004, the United States contributed approximately \$10 million to the judicial sector out of a total of \$2.1 billion in assistance to Afghanistan as a whole (Jones et al. 2005, 78). This big difference in funding allocated from Security Budgets to Budgets of the Judiciary Sector practically made it impossible for reconstruction work to go on at all right from the start.

A nationwide assessment conducted in 2007, illustrated the scale of institutional deterioration, finding that 132 courts required complete reconstruction and another 93 required rehabilitations, meaning that almost 98 percent of Afghanistan's courthouses required either construction or substantial repair. Professional resources were equally inadequate: approximately 80 percent of provincial prosecutors lacked university qualifications, while a 2006 survey found that 40 percent of judges had never completed mandatory judicial training before appointment, and nearly 90 percent had received no subsequent professional training (Royal United Services Institute 2009, 126–27).

The persistence of these institutional weaknesses significantly undermined public confidence in formal justice institutions and reinforced reliance upon customary dispute-resolution mechanism (jirga). Historically, rather than relying exclusively on formal state courts, most Afghans traditionally resolved disputes through community-based institutions such as jirgas. These institutions are very close to local customs and in fact they had more social legitimacy than formal judicial system. Jirgas were the traditional mechanisms of social order even before the emergence of modern state institutions. These customary institutions were highly autonomous as their power was based on tribal traditions, religious legitimacy and local social structures, rather than the state. The absence of effective state justice simultaneously created opportunities for the Taliban to expand its influence by establishing a parallel judicial system in contested rural areas. Swenson notes that Taliban courts had re-emerged by 2003 and became a central component of the insurgency by 2006 (Giustozzi 2014). Taliban courts were widely regarded as legitimate because they were perceived as fair, swift, free from bribery, and capable of enforcing their decisions (Johnson 2013, 9). Taliban's shadow courts became increasingly active in resolving civil disputes involving land, inheritance, and family matters, frequently delivering decisions more rapidly and with less perceived corruption than state courts (Jingyu 2023).

After 2006, when insecurity increased, the international community increasingly recognized that strengthening Afghanistan's justice sector is indispensable to the long-term success of state-building project. At 2007 Ministerial-Level International Conference on the rule of law in Afghanistan, donors pledged to contribute \$360 million over five years to justice sector reform. In 2008, the Afghan government released its final Afghanistan National Development Strategy (ANDS), as well as supplemental details for justice sector development in the National Justice Sector Strategy (NJSS) and National Justice Program (NJP). The ANDS set out several rule of law objectives to be met by the end of 2010, and these objectives were included: completing the basic legal framework, including civil, criminal, and commercial law; rehabilitating the physical justice sector infrastructure; establishing active and operational formal justice sector institutions in all 34 provinces; reviewing and reforming oversight procedures related to corruption, lack of due process, and other miscarriages of the law; implementing reforms to strengthen the professionalism, credibility, and integrity of justice sector institutions (Wyler and Katzman 2010, 17).

After this, international assistance supported legislative reform, professional training, and the administrative development of key justice institutions, including the Supreme Court, Ministry of Justice, Attorney General's Office, police, and prison service. Numerous justice institutions were refurbished or newly constructed in Kabul, provincial capitals, and district centres. Justice institutions were equipped with modern office facilities, printed legal materials were distributed nationwide, and efforts were undertaken to digitize legislation and improve administrative procedures. Human rights and gender equality units were established within major justice institutions, legal aid departments were created in Kabul and several provinces, the Independent Bar Association of Afghanistan was established, and the Independent National Legal Training Centre (INLTC) was created to strengthen professional legal education. Reforms also sought to simplify bureaucratic procedures and improve coordination among justice institutions while enhancing the professional capacity of judges, prosecutors, prison personnel, and police officers (Wardak 2016, 151–52).

U.S. as well came in direct support of Italy and started its projects to strengthen the Afghan justice system. They launched the Justice Sector Support Program (JSSP), administered by the U.S. Department of State's Bureau of International Narcotics and Law Enforcement Affairs (INL). JSSP pursued three broad objectives. First, it provided extensive training for judges, prosecutors, defence attorneys, and other justice-sector officials. Second, it introduced a national case-management system to improve judicial administration. Third, it sought to strengthen the administrative and technical capacity of justice-sector institutions, including the Attorney General's Office, the Ministry of Justice, the Ministry of Women's Affairs, the Ministry of Interior, the Supreme Court, and the Independent National Legal Training Center. In 2013, The program underwent structural changes. Its prominent regional training wing was separated and transitioned to the International Development Law

Organization (IDLO) under a new initiative called the Justice Training Transition Program (JTTP). In the light of such a move, most of the fundamental areas like the Case Management System (CMS) and capacity building within the institutional Ministry remained essential to JSSP (SIGAR 2014b). The program continued till the collapse of the Republic in August 2021. Till 2014, the program delivered more than 300 training courses, reaching over 13,500 participants across all 34 provinces (SIGAR 2014a). In addition, the program assisted with legislative drafting and helped establish several institutions, including the Attorney General's Anti-Corruption Unit, the Afghanistan Independent Bar Association, and the Planning Directorate within the Ministry of Justice (Swenson 2017, 131). JSSP suffered from weak oversight, poorly designed objectives, and deliverables that ultimately proved ineffective or unusable (SIGAR 2014b).

By 2009, U.S. policymakers increasingly linked justice-sector reform to counterinsurgency. they argued that strengthening judicial institutions would undermine Taliban influence by improving state legitimacy. This shift produced two successor programs funded by USAID: the Rule of Law Stabilization–Formal Component (RLS-Formal) and the Rule of Law Stabilization–Informal Component (RLS-Informal). The international development contractor Tetra Tech DPK was chosen to implement RLS-Formal from May 2010 to September 2014, at a cost of more than \$47.5 million. Its objectives closely resembled those of AROLP, emphasizing judicial capacity-building, legal education, public legal awareness, technical assistance, and institutional planning. Public information campaigns sought to improve citizens' perceptions of the judiciary, while outreach activities strengthened communication between the Supreme Court and the Ministry of Justice. But the program ignored the underlying political economy of Afghanistan's justice system. Judicial independence remained absent, corruption remained endemic, and political interference continued to shape legal outcomes. Consequently, improving the judiciary's public image risked strengthening institutions that lacked legitimacy rather than creating genuine rule of law. According to the Tetra Tech DPK's report, the Afghan institutions had limited commitment to reform. They institutions frequently delayed or refused to approve new procedures, technologies, and reforms that would improve judicial efficiency and transparency. Leadership within these institutions demonstrated little willingness to support sustainable justice-sector reforms or allocate resources necessary for maintaining training programs (Swenson 2017, 125). Efforts to improve gender representation in the judiciary also achieved measurable progress, albeit geographically unevenly. The number of female judges increased from 41 in 2007 to 180 by 2013, represented approximately 10 percent of Afghanistan's judiciary of that time. Nevertheless, around 90 percent of these judges remained concentrated in Kabul, with only a small number serving in four other provinces, highlighting the continuing difficulty of extending judicial reforms beyond major urban centres (Madzarevic and Rao 2014).

Although there were some improvements in the functioning of the institutions, the justice system still had a lot of problems that needed to be resolved. It has been highlighted by Danny Singh that corruption was an issue which was the reason why judicial reforms did not go further. He also stated that the presence of corruption had seriously damaged people's confidence in the government institutions and made enforcement of laws difficult in the country. Singh identifies low salaries, inadequate institutional oversight, non-merit-based recruitment, insufficient financial resources, weak administrative capacity, and political intervention as the principal internal drivers of corruption affecting judges, prosecutors, police officers, and prison officials (Danny 2015).

Ali Wardak linking these justice sector's internal weaknesses to the powerful external political influences. Corruption within Afghanistan's justice institutions became closely intertwined with the post-2001 political settlement. The incorporation of former warlords and militia commanders into key government positions enabled them to fill justice and security institutions with loyalists, entrenching corruption, patronage, nepotism, and clientelism. As a result, judicial corruption reflected the broader political order rather than merely administrative weakness. Coordination among the police, prosecutors, courts, and correctional institutions also remained poor due to institutional fragmentation, weak communication, and factional rivalries, while uncoordinated donor interventions further undermined justice-sector reform (Wardak 2016, 151–53).

From 2017 onward, the Afghan government sought to modernize the legal framework, strengthen judicial professionalism, improve land administration, expand anti-corruption mechanisms, and increase institutional self-sufficiency. One of the most significant legal reforms of this period was the adoption of a new unified Criminal Code, officially promulgated in November 2017 and entering into force in February 2018. The Code consolidated numerous previously fragmented criminal laws into a single legislative framework and modernized Afghan criminal law by incorporating provisions addressing violence against women, anti-corruption, anti-money laundering, counter-terrorism, and human trafficking (Ministry of Justice of Afghanistan 15/52017).

for judiciary capacity-building following the launch of the Justice Training Transition Program (JTTP) in 2013, the International Development Law Organization (IDLO) continued strengthening professional education within Afghanistan's justice institutions. Rather than relying primarily upon international trainers, IDLO assisted the Supreme Court, the Attorney General's Office, and the Ministry of Justice in establishing permanent in-house training departments responsible for curriculum development, monitoring, budgeting, procurement, and the delivery of continuing legal education. By 2018, all legal training previously supported by IDLO was being delivered directly by Afghan justice institutions themselves. A total of 125 professional training courses were conducted for 2,921 judges, prosecutors, and defence lawyers representing all 34 provinces, reflecting growing institutional ownership of judicial education in this period (International Development Law Organization 2020).

International organizations simultaneously expanded legal aid and access-to-justice programs. The United Nations Development Program (UNDP) continued to support initiatives that educated judges, prosecutors, lawyers and court administrators, and to improve legal aid programs and public knowledge of legal rights. Community-based dispute resolution initiatives were promoted to improve the interaction between formal judicial institutions and customary justice systems. In 2021, donor funded programs continued to provide legal aid to many Afghan civilians, reflecting the international community's commitment to improving access to justice in increasingly difficult security conditions. In 2016, the most significant institutional reform for the investigation and prosecution of high-level corruption cases was the establishment of the Anti-Corruption Justice Center (ACJC), identifying corruption as the primary threat to judicial legitimacy. Judges and prosecutors were trained in specific anti-corruption measures and foreign donors invested heavily in improving investigative capacity and strengthening accountability processes (United Nations Development Programme 2021). The project achieved only limited progress because corruption is deeply rooted in the political and institutional framework of Afghanistan.

Swenson argues that the global rule of law efforts has achieved some modest tactical successes, including the establishment of new judicial infrastructure, training programs, legal education programs and administrative reforms. But these successes did not lead to major institutional change because they ignored the political basis of justice (Swenson 2017, 134). Matteo have same view, In the long term, legal reform will depend on political transformation and the emergence of an Afghan political leadership capable of establishing an unambiguous legal framework, harmonizing the system and overcoming the problem of conflicting legal principles and rules (Tondini 2007).

From Militarization to Professionalization: The Challenges of Police Reform:

The police are the gatekeepers to the criminal justice system and a vital pillar of a rule of law. Due to decades of conflict and frequent regime changes, Afghanistan lacked a uniform and enduring police and law enforcement system. After 2001, at the international donors at the Group of Eight (G8) donor conference, building the Afghan National Police institution was given to Germany (as German authorities in the 1960s and 1970s provided police development assistance to Afghanistan). As per Article 134 of the 2004 constitution, Afghan National Police (ANA) is responsible to discover and identify the crime. As per article 5, 2009 police law, The duties of the police include ensuring and maintaining public order and security; ensuring the security, rights, and freedoms of individuals and the society; adopting measures to prevent crimes; discovering crimes and arresting the suspects and

perpetrators in a timely manner in accordance with the law; and persevering and keeping the evidence of crimes (Police Law, Official Gazette No. 994 article: 5 cited in Hakimi and Moradi 2022, 7).

Reconstitution of the Afghan National Police (ANP) formally began in February 2002, when donor nations agreed to establish a multiethnic, sustainable, professional police service committed to the rule of law. Under Germany's leadership, the Kabul Police Academy reopened in August 2002 and offered a three-year training program for officers and a nine-month course for noncommissioned officers. Germany's approach followed a European model of policing and emphasized long-term professional development (Afghanistan Security: US Efforts to Develop Capable Afghan Police Forces Face Challenges and Need a Coordinated, Detailed Plan to Help Ensure Accountability 2008, 4). The United Nations Development Programme (UNDP) created the Law and Order Trust Fund for Afghanistan (LOTFA) In May 2002, which was intended to provide a centralized mechanism for donor contributions to police salaries, infrastructure development, and capacity-building initiatives. At the beginning, police also less prioritized by donor countries, and received low attention (in form of financial and technical assistance as well) in compare to Afghan National Army (ANA). These financial inconsistencies contributed to broader structural weaknesses, including corruption, salary skimming, and the persistence of "ghost personnel" within the system.

In parallel with these institutional challenges, the broader security environment in Afghanistan began to deteriorate. By 2003, it had become clear that Germany's long-term, capacity-building approach was insufficient to meet the immediate security needs of the country. In response, the United States began to expand its involvement in police reform, marking a significant shift in the overall strategy of ANP development. The U.S. approach differed fundamentally from that of Germany "while Germany emphasized quality and long-term professionalization, the United States prioritized rapid force generation to address urgent security challenges".

The U. S. State Department started a police training center in Kabul and later turned it into regional training centers in Gardez Kunduz Jalalabad, Mazar-e Sharif Kandahar Herat, and Bamiyan to swiftly raise the number of trained police officers. The training involved illiterate as well as literate officers' courses, transition programs, and trainer training. Also, the United States hired DynCorp International as a police training overseer and for dispatcher of American and international trainers (Çiftçi and Sedat 2014, 1049–50). Although these programs were successful in their aim of training more police officers, they also raised concerns about the quality and depth of training (For more details, see Perito 2009, 79). Additionally, governance and financing issues, such as the allocation of funds to the Afghan Ministry of Interior, remained unresolved. This was because the donors were unable to meet their obligations, and by 2004, only \$11.2 million of the \$65 million requested was contributed (Miller and Perito 2004, 11).

By 2007, insecurity increased and this resulted to U.S. take more dominant role in the ANP building. To bring coordination, the Combined Security Transition Command–Afghanistan (CSTC-A) took the responsibility of training, equipping, and look after its logistic of ANP as well (Before this, CSTC-A had the responsibility of training, equipping, and looking after the logistic of ANA from 2005). By taking dominant role by U.S. in ANP building, ANP militarized, and this militarization of police blurred the distinction between civilian policing and military operations, undermining the development of a rule-of-law-based policing culture. While this transformation may have been driven by immediate security needs, it had long-term consequences for the legitimacy, effectiveness, and sustainability of policing in Afghanistan.

In the 2013 round of reforms, it marked an altogether different period of time. As such, it was decided that instead of focusing on the fast expansion of the ANP's strength, efforts should be made towards the strengthening of the structures of the ANP in a way that they would become professionals in their responsibilities. This shift in focus was also reflected through a strategic document for the ANP that would take them into the next decade. That document, which covers 2013 to 2023, is actually the plan that would be used to make the ANP a transparent, professional and civil law enforcement agency. The idea was to transition from militarized counter-insurgency roles to policing roles based on the rule of

law, crime prevention and delivery of public services. It also introduced a series of two-year implementation plans designed to operationalize this broader vision (Ten-Year Vision for the Afghan National Police: 1392-1402 2013). By the adaptation of ten-year strategic vision for ANP, the main focus was shifted from militarization of ANP to the original responsibilities of ANP. To achieve this target, new reforms were brought in ANP, like *Police-e Mardumi* (Community-Oriented Policing), the Afghan Personnel and Pay System (APPS), transferring militarized or fighting police factions under the Ministry of Interior to the Ministry of Defence.

Although, community-oriented policing concept was started in 2008 under the title *Police-e Mardumi*, but via this vision, it institutionalized and MoI officially established directorate of Community-Policing to oversee the expansion of community-policing across all 34 provinces. In theory, this shift represented a fundamental transformation in the role of the police, from a militarized, counterinsurgency-oriented force into a civilian service institution embedded within society. It underscored that the police must serve the populace and foster ongoing, collaborative partnerships with communities, so enhancing legitimacy and public trust. *Police-e Mardumi* aimed to strengthen trust between citizens and police, improve local problem-solving through dialogue; encourage information sharing to prevent crime and violence; and increase accountability and responsiveness. Rather than relying only on force or checkpoints, *Police-e Mardumi* emphasized regular meetings with elders, religious leaders, and community councils, along with outreach to youth and women.

The Afghan Personnel and Pay System (APPS) was one of the most important administrative and anti-corruption reforms within the Ministry of Interior and the Ministry of Defense. It was launched in 2016 and was designed to address deep-rooted governance failures in personnel management, particularly the widespread problems of “ghost employees,” salary diversion, and weak human resource oversight, not just ANP but all Afghan armed forces. Before the implementation of APPS, personnel and payroll systems within the MoI were largely manual, fragmented, and highly vulnerable to manipulation. APPS was designed as a biometric-based, centralized personnel management system that would eliminate ghost employees and ensure that salaries were paid directly to verified individuals, (Enhancing Security and Stability in Afghanistan 2018, 97–100) and aimed to improve transparency and accountability. The financial impact of APPS was considerable. Official estimates suggest that the system has helped the MoI saved nearly 2.7 billion Afghanis in logistics costs, some 3 billion Afghanis in salary payments and another 700 million Afghanis in administrative costs (Mehr 2020).

A major component of police reform in Afghanistan was the restructuring and reorganization of paramilitary police units, most notably the Afghan Border Police (ABP) and other auxiliary forces. The (ABP), operating in some of the most volatile areas of the country, was heavily militarized and often looked more like a light infantry unit than a traditional border patrol. This blurred the distinction between police and military roles and contributed to the broader militarization of the ANP. When the shift of focus from paramilitary force to law enforcement of ANP was created, the Afghan government started transforming Afghan Border Police a faction of ANP to the Afghan National Army (ANA). Another significant development during this period was the eventual dissolution of the Afghan Local Police (ALP) in September 2020. ALP, originally came out of the various different types and forms of the idea of local police, and it was later on that the ALP was dissolved for various reasons such issues around accountability, human rights abuses and the influence that ALP was open to the dynamics of local power. Approximately 10,388 ALP personnel were transferred to the Afghan National Army Territorial Force (ANA-TF), while 11,549 were integrated into the ANP (Kate Clark 2021; K. Clark 2020).

By 2014, the Taliban's attacks more increased and insecurity more intensified, ANP remained highly visible and an easy target for Taliban. So, on the one hand, Afghan government's action to transform ANP from counterinsurgency operations to conventional civilian policing institution, on the other hand, ANP was an easy target for the Taliban that compelled ANP to be in the frontline of war which not allowed ANP to put its all focus on its main job “conventional civilian policing”. By 2020, it was estimated that approximately 84 percent of ANP personnel were engaged in military-type operations rather than policing functions. This further undermined the Afghan government and international

donor's efforts to establish a civilian law enforcement model police. On the other side, Fund remained till last very low. In 2020, ANP received only 20-25 percent of security-sector assistance, sometimes even less (A Force to be Reckoned With 2020).

Besides all these shortcomings of ANP, there was weak coordination among the police and other parts of justice sector. There was sore lack of a working judicial system. This meant that police could not enforce laws and hold themselves accountable. Arrests often did not lead to convictions without effective courts and prosecutors. This undermined the credibility of the whole system of criminal justice (Afghanistan Security: US Efforts to Develop Capable Afghan Police Forces Face Challenges and Need a Coordinated, Detailed Plan to Help Ensure Accountability 2008).

The foregoing challenges have contributed to the poor implementation of the law. For example, adherence to due process during and after arrest was weak (World Justice Project 2020, 8). Despite the proscription against arbitrary arrest and detention, law enforcement authorities detain many citizens in violation of these legal safeguards. Police officers often did not inform detainees of the charges against them. Furthermore, the police frequently fail to take the suspect to official law enforcement facilities immediately following arrest. Mistreatment after arrest and during interrogation was common and takes various forms including physical beating and sleep deprivation (World Justice Project 2020, 8).

Conclusion:

At the beginning of the reconstruction period, the donor countries gave law enforcement and the judiciary a lower level of priority than other reconstruction areas. As a consequence, through a large part of the early Republican era, the sector was under-resourced in both material and immaterial terms. When it later happened that insecurity levels started to rise, the donors, first among them being the United States, military-style transformed the police which pulled the police force away from its fundamental task, identifying and discovering crime, making it not really fit for that main role anymore. Such change had been responsible for malpractice at top positions covering all the parts the justice sector with its institutions in the process of becoming totally untrustful among people. The decline of the confidence level, as it was a result of erosion of people's trust in the formal justice system, made people refer more to traditional means of settling disputes that are in particular known as jirga in Afghanistan because these are more convenient, not very corrupt, and very fast when compared to the state courts. The state justice failure in an effective way, in particular in the rural regions, gave place to the Taliban to be at large by setting-up another judicial system in the areas that are either contested or under their control.

With rising uncertainty, international development partners began focusing heavily on the judiciary, resulting in very significant financial and human resource investments. The consequence of this was the launching of several court reform initiatives. The courts, the judges, and the prosecutor's office achieved visible gains but as far as the police go, about core investigative capacities, they remained quite underdeveloped as the major trend was still to prefer militarization of the police over the use of professional policing techniques.

After 2013, donors' priorities changed away from militarization and focused on the development of a genuinely professional police force that served as an effort to reestablish the civilian character of the police that had gotten lost over time. Reforms during this period also covered issues like Community Oriented Policing and the implementation of the Afghan Personnel and Pay System. Besides that was the transfer of heavy militarized units that used to form part of the auxiliary forces like the Afghan Border Police to the Afghan National Army. Yet, as international aid to the country began to wane after 2014 together with higher levels of insecurity, the police were in no less way still heavily militarized even during the fall of the Islamist government.

Overall, international investment after 2001 enabled reconstruction of many elements of an efficient justice system. Besides legal institutions new to the country being a part of a justice delivery system, big pieces of laws were drafted and later amended, legal courts multiplied, people's ability to find justice through law became broader, government capacity to run things through law was increased, a

system of free or inexpensive legal services was developed, organizations safeguarding human rights were formed, and professional education activities became increasingly formalized. Still, these measures remained ineffective in ensuring that a state governed exclusively by law was established on a firm basis. A lack of transparency, warlords and political leaders interfering, poor funding early on, donor collaboration being a scattered mess, were all factors opposing transformation, while having different ministries handle a single sector in justice (such as in Afghanistan) was making it all worse. The Supreme Court, Ministry of Justice, and Attorney General's Office, instead of being part of a united criminal justice system were often functioning independently as the three institutions whose relationship were either tense or openly hostile.

As a result, despite Really the international community has devoted a lot of money resources and support to institutional development in Afghanistan for around 20 years, the country's system of delivering of justice could not really meet the demand of effective, widespread, and sustainable justice for most of the population.

Bibliography:

1. 'A Force to Be Reckoned With'. 2020. *Friedrich Ebert Stiftung*. <https://connect.fes.de/people/interview-hosna-jalil.html> (July 10, 2026).
2. *Afghanistan Security: US Efforts to Develop Capable Afghan Police Forces Face Challenges and Need a Coordinated, Detailed Plan to Help Ensure Accountability*. 2008. U.S. Government Accountability Office. <https://apps.dtic.mil/sti/html/tr/ADA482681/> (July 10, 2026).
3. *Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions*. 2001. United Nations Security Council. <https://peacemaker.un.org/sites/default/files/document/files/2024/05/af011205agreementprovisionalarrangementsinafghanistan28en29.pdf> (October 3, 2025).
4. Çiftçi, İrfan, and Kula Sedat. 2014. 'How Security Problem of Afghanistan Threatens the Global World: Afghan Police Reform Case'. *International Journal of Human Sciences* 11(2): 1041–61. doi:<https://doi.org/10.14687/ijhs.v11i2.2925>.
5. Clark, Kate. 2020. 'Disbanding the ALP: A Dangerous Final Chapter for a Force with a Chequered History'. <https://www.afghanistan-analysts.org/en/reports/war-and-peace/disbanding-the-alp-a-dangerous-final-chapter-for-a-force-with-a-chequered-history/> (March 26, 2026).
6. Clark, kate. 2021. 'Disbanding the ALP - A Update: Major Transition of Security Forces Achieved during Wartime, but at a Cost'. *Afghanistan Analysts Network*. <https://www.afghanistan-analysts.org/en/reports/war-and-peace/disbanding-the-alp-an-update-major-transition-of-security-forces-achieved-during-wartime-but-at-a-cost/> (July 10, 2026).
7. Danny, Singh. 2015. 'Explaining Varieties of Corruption in the Afghan Justice Sector'. *Journal of Intervention and Statebuilding* 9(2): 231–55. doi:[10.1080/17502977.2015.1033093](https://doi.org/10.1080/17502977.2015.1033093).
8. *Enhancing Security and Stability in Afghanistan*. 2018. Washington, DC: U.S. Department of Defense. <https://media.defense.gov/2018/Jul/03/2001938620/-1/-1/1/1225-REPORT-JUNE-2018-FINAL-UNCLASS-BASE.pdf> (July 10, 2026).
9. Giustozzi, Antonio. 2014. 'The Politics of the Taliban's Shadow Judiciary, 2003-2013'. *Central Asian Affairs* 1(2): 199–224. doi:[10.1163/22142290-00102003](https://doi.org/10.1163/22142290-00102003).
10. Hakimi, Mehdi J., and Kobra Moradi. 2022. 'Crime and Criminal Justice in Afghanistan'. In *Comparative Criminal Justice: International Trends and Practices*, Rowman & Littlefield.

11. International Development Law Organization. 2020. 'How Afghanistan Started Delivering In-House Justice Sector Training'. *International Development Law Organization*.
<https://www.idlo.int/news/story/how-afghanistan-started-delivering-house-justice-sector-training> (June 25, 2026).
12. Jingyu, Wei. 2023. 'Analysis of the Effectiveness of Security Sector Reform in Afghanistan-The Case of 2002 to 2014'. *Studies in Social Science & Humanities* 2(3): 50–55.
13. Johnson, Thomas H. 2013. 'Taliban Adaptations and Innovations'. *Small Wars & Insurgencies* 24(1): 3–27.
14. Jones, Seth G., Jeremy M. Wilson, Andrew Rathmell, and K. Jack Riley. 2005. *Establishing Law and Order After Conflict*. Santa Monica, CA: RAND Corporation.
<https://www.rand.org/pubs/monographs/MG374.html> (June 24, 2026).
15. Madzarevic, Jelena, and Shobha Rao. 2014. *Strengthening Displaced Women's Housing, Land and Property Rights in Afghanistan*. Oslo: Samuel Hall & Norwegian Refugee Council.
<https://www.nrc.no/globalassets/pdf/reports/strengthening-displaced-womens-housing-land-and-property-rights-in-afghanistan.pdf> (June 24, 2026).
16. Mehr, Bahar. 2020. 'Slowly but Surely, Afghan Police Force Is Developing'. *TOLO news*.
<https://tolonews.com/opinion/slowly-surely-afghan-police-force-developing> (July 10, 2026).
17. Miller, Laurel, and Robert Perito. 2004. *Establishing the Rule of Law in Afghanistan*. Washington, DC: United States Institute of Peace (USIP). Special Report.
<https://www.usip.org/sites/default/files/sr117.pdf> (May 12, 2026).
18. Ministry of Justice of Afghanistan. 15/52017. Official Gazette no. 1260 (Special Issue) *Penal Code*. [https://cdn.prod.website-files.com/63bfd1ae525288ba4a5801fd/64243e3db21cc6e32a5f820b_Penal%20Code%20\(English\).pdf](https://cdn.prod.website-files.com/63bfd1ae525288ba4a5801fd/64243e3db21cc6e32a5f820b_Penal%20Code%20(English).pdf) (July 7, 2026).
19. Murray, Tonita. 2011. 'Security Sector Reform in Afghanistan, 2002-2011: An Overview of a Flawed Process'. *International Studies* 48(1): 43–63.
doi:<https://doi.org/10.1177/002088171204800103>.
20. Parnami, Komal. 2019. 'Concept of Justice: Difficulties in Defining Justice'. *International Journal of Law Management and Humanities* 2(5): 1–17.
21. Perito, Robert M. 2009. *Afghanistan's Police: The Weak Link in Security Sector Reform, Security and Development in Peace Operations and Post-Conflict Situations*. United States Institute of Peace (USIP).
https://ciaotest.cc.columbia.edu/wps/usip/0017518/f_0017518_15001.pdf (July 10, 2026).
22. Royal United Services Institute. 2009. *Reforming the Afghan National Police*. London and Philadelphia: RUSI/FPRI. https://static.rusi.org/assets/ANP_Nov09.pdf (June 23, 2026).
23. SIGAR. 2014a. *Department of State's Afghanistan Justice Sector Support Program: Audit of Costs Incurred by Pacific Architects and Engineers*. Arlington, VA: Special Inspector General for Afghanistan Reconstruction.
<https://www.oversight.gov/sites/default/files/documents/reports/2020-02/SIGAR-15-22-FA.pdf> (June 24, 2026).
24. SIGAR. 2014b. *Support for Afghanistan's Justice Sector: State Department Programs Need Better Management and Stronger Oversight*. Arlington, VA: Special Inspector General for Afghanistan Reconstruction. <https://apps.dtic.mil/sti/pdfs/ADA594362.pdf> (June 24, 2026).
25. Swenson, Geoffrey. 2017. 'Why US Efforts to Promote the Rule of Law in Afghanistan Failed'. *International Security* 42(1): 114–51.

26. 'Ten-Year Vision for the Afghan National Police: 1392-1402'. 2013. *Government of Afghanistan, Ministry of Interior Affairs*. <https://ipcb.wordpress.com/wp-content/uploads/2013/06/13-04-02-ten-year-vision-english-final-version.pdf> (March 24, 2026).
27. 'The Constitution of Afghanistan'. 2004. <https://www.afghanembassy.com.pl/afg/images/pliki/TheConstitution.pdf> (October 27, 2024).
28. Tondini, Matteo. 2007. 'Rebuilding the System of Justice in Afghanistan: A Preliminary Assessment'. *Journal of Intervention and Statebuilding* 1(3): 333–54. doi:DOI: 10.1080/17502970701592272.
29. United Nations Development Programme. 2021. 'Afghanistan - Rule of Law and Human Rights: 2021 Annual Report'. <https://rolhr.undp.org/annualreport/2021/asia-pacific/afghanistan.html> (June 23, 2026).
30. Wardak, Ali. 2016. 'A Decade and a Half of Rebuilding Afghanistan's Justice System: An Overview'. Hg. *V. Van Vollenhoven Institute. Leiden*. https://opendata.unihalle.de/bitstream/1981185920/124616/1/jals_volume_3_7491.pdf.
31. World Justice Project. 2020. *The Rule of Law in Afghanistan: Key Findings from 2019*. Washington, DC: World Justice Project. https://worldjusticeproject.org/sites/default/files/documents/Final-Afghanistan-Report-2019_B.pdf (July 10, 2026).
32. Wyler, Liana Sun, and Kenneth Katzman. 2010. *Afghanistan: U.S. Rule of Law and Justice Sector Assistance*. Washington, DC: Congressional Research Service. https://www.congress.gov/crs_external_products/R/PDF/R41484/R41484.2.pdf.

