

Afghan legal progress sparks hope

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By Guy Dinmore in Rome

Published: December 3 2009 11:36 | Last updated: December 3 2009 11:36

For Afzal Nooristani, an Afghan lawyer who heads a non-government organisation providing legal aid services, sending 30,000 more troops to fight an "invisible" enemy is not the solution in the war against the Taliban.

But still he sees hopeful signs of progress, mostly in the cultural mindset of the younger generation and gradual improvements in the judicial system, with the emergence of younger judges and the training of many women lawyers.

"Encouraging people to focus more on cultural issues and providing more jobs and a stronger economy will give more results than sending more troops," Mr Nooristani said on a visit to Rome.

"The Taliban is somehow invisible. At night he is a Taleb. During the day you do not know who you are talking to ... Now there will be as many troops as the Russians had, but fighting in the dark is very difficult."

Mr Nooristani is the founder and head of the multi-ethnic Legal Aid Organisation of Afghanistan, a non-profit and independent group with a mandate to provide legal aid to Afghans in criminal defence, family law and some civil cases, focusing on marginalised and under-represented sectors of the population.

But in a country of 30m people which has only 600 lawyers, progress in the judicial system is slow and patchy. Training facilities in the main law and Sharia faculty are limited, although Mr Nooristani says a lot of private universities are emerging.

His NGO has only one lawyer, for example, in the southern city of Kandahar, where working outside the urban area is highly dangerous. Twice the lawyer was almost caught by the Taliban, which he notes is ironic given that some of the people they are defending are Taliban or people who have been falsely accused of being Taliban.

"In most districts of Kandahar people are under Taliban control and there is no government institution to institute laws," he says.

In rural areas, "traditional" systems of justice implemented by councils of elders still predominate. But in the cities, where government control is stronger, courts are functioning better.

Defendants are represented by lawyers, there are fewer confessions through torture and case tracking systems are improving, as is the ownership and registration of land titles. Afghanistan's legal system has codified Islamic sharia law, with laws based on the Egyptian civil code.

But corruption remains a major problem, and some judges, even those in important posts in Kabul, have kept positions they held under the Taliban before the US invasion in 2001. "These people, it is very difficult to change their mindset. But we can rely on the younger generation," he says.

Mr Nooristani's NGO also trains lawyers. The 55 legal graduates being trained in Kabul are all women, he says. "They are well respected in the courts and sometimes defendants ask for the women because they know they are good." Women also act as judges, especially in juvenile courts.

The Rome-based International Development Law Organisation (IDLO), an inter-governmental body that promotes the rule of law and good governance in developing countries, is providing legal training programmes in Kabul and helps support Mr Nooristani's NGO.

Sumit Bisarya, IDLO's field officer in Afghanistan, also sees signs of progress – from the provision in May of electricity in Kabul from the grid to a recent decision by Afghanistan's attorney-general to set up a special unit dealing with violence against women.

Both see television playing an important role in promoting cultural issues, even going so far as to feature US-style talent contests and fashion shows with women.

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