An Evaluation of Forensic Evidence in Kabul Primary Courts.

2017

Forensic Science Organization

FSO
An Evaluation of Forensic Evidence in Kabul Primary Courts
An Evaluation of Forensic Evidence in Kabul Primary Courts

Published by: Afghanistan Forensic Science Organization

Date: 20 July 2017

Address: Gawharshad University, Karte - 3, Kabul.

Web: www.fso.org.af/en

E-mail: afso.afg@gmail.com

www.facebook.com/forensicAfg

www.twitter.com/forensicAfg
Table of Contents

Introduction ........................................................................................................................................... 4
About Afghanistan Forensic Science Organisation (AFSO) ............................................................ 5
Methodology ......................................................................................................................................... 5
Limitations and Challenges .................................................................................................................. 6
Some general observations on the criminal process in Kabul Primary Courts ......................... 7
The Role of Forensic Evidence in the Criminal Trial .......................................................................... 8
Hymen examinations conducted by the LMD for the purported purpose of establishing recent
sexual intercourse or “virginity” as sexual status ............................................................................... 9
Case Study: Ms T. ............................................................................................................................... 11
Gynaecological examination of married woman accused of zina ...................................................... 12
Case Study: Provincial Council members and married women ..................................................... 12
Anal examinations for the purported purpose of establishing sodomy ........................................... 13
Case Study: Police shooting at Checkpoint ..................................................................................... 14
Age determination .............................................................................................................................. 15
Lack of evidence linking the accused to the crime ......................................................................... 16
Case study: Death of a daughter-in-law .......................................................................................... 16
Recommendations .............................................................................................................................. 17
Appendix A .......................................................................................................................................... 18
Trial Monitoring Methodology .......................................................................................................... 18
Appendix B .......................................................................................................................................... 21
Trial Monitoring Form .......................................................................................................................... 21
Appendix C: The Permission of Supreme Court ............................................................................. 28
Introduction

Forensic evidence is poorly understood by most actors in Afghanistan’s legal system and rarely introduced in Afghanistan’s courts, resulting in routine violations of the right to a fair trial and miscarriages of justice, particularly in cases where forensic evidence, if properly analyzed and admitted, could exonerate the accused. For justice to be administered, there is a need for the judiciary, lawyers, prosecutors, police, medical examiners and civil society to recognise the value of forensic evidence and demand its introduction, and review, in the resolution of legal questions.

The Afghanistan Forensic Science Organization’s (AFSO) project “Strengthening the Afghan judicial system’s capacity to understand and accept forensic evidence as a means to establish the truth, deliver justice and prevent the miscarriage of justice” is an 18-month project funded by the United States Institute of Peace (USIP) to strengthen the Afghan judicial system’s capacity to understand and accept forensic evidence as a means to establish the truth, deliver justice and prevent the miscarriage of justice.

As a component of the wider project, in December 2016 AFSO commenced a trial monitoring project in Kabul primary courts. The aims of the trial monitoring project are to:

1. Compile reliable information on practices of courts in Kabul in relation to:
   a. criminal defence practices;
   b. admission of forensic evidence;
   c. admission of expert opinion evidence; and
   d. the ability of the defence to challenge evidence.

2. Monitor categories of criminal cases where the abuse or misuse of forensic evidence is routinely contributing to miscarriages of justice:
   a. homicide;
   b. moral crimes: zina (extramarital sex), attempted zina (qasd zina), running away from home (faraar az khana) and sodomy (lewat); and
   c. criminal cases where the accused alleges torture.

3. To produce a final report with the main observations, analysis and recommendations that will be widely disseminated among all stakeholders in the justice system, university law faculties, government departments and civil society.

4. To build the capacity of AFSO and law students as independent human rights monitors.

This report summarises the main findings of the trial monitoring project and makes recommendations aimed at improving the reception of forensic evidence in Afghanistan’s courts.
About Afghanistan Forensic Science Organisation (AFSO)

AFSO is an independent non-profit organization founded in 2011 to promote the use of forensic science in Afghanistan. AFSO is registered with Afghanistan’s Ministry of Economy.

In 2010, 18 professionals from the Afghan National Police (ANP), Afghanistan Independent Human Rights Commission (AIHRC), the Legal Medicine Directorate (LMD),1 archaeologists from the Ministry of Culture and Information, and civil society organizations participated in a five-week training course in basic crime scene documentation and human osteology, conducted by Physicians for Human Rights (PHR). Following the completion of this course, participants mobilized to form AFSO. Since then, AFSO has been working to fulfil its mandate to document, protect and register Afghanistan’s mass graves, as well as expanding its work to include education and advocacy on the full range of forensic issues. As the only dedicated non-government forensic science organisation in Afghanistan, AFSO has played a leading role in promoting the use of forensic science in the justice system since 2011.

AFSO regularly conducts awareness raising workshops in Kabul and in the provinces with a range of stakeholders including police, prosecutors, judges, lawyers, the Afghanistan Independent Human Rights Commission, civil society activists and universities on a broad range of forensic issues. Highlights of AFSO’s work include the documentation and registration of Afghanistan’s many mass graves, developing and implementing Afghanistan’s first (and only) forensic science university curriculum and advocating for an end to hymen examinations for the purported purpose of establishing whether a woman has recently had sex or is a “virgin”.

Since February 2015, AFSO has partnered with Gawharshad University to deliver Afghanistan’s first curricula in forensic science. AFSO is an active member of both the Detention Working Group (DWG), an advocacy coalition of Afghan human rights and legal aid organizations that focuses on the treatment of conflict-related detainees, and the Transitional Justice Coordination Group.

Methodology

AFSO developed a trial monitoring methodology based upon the Organization for Security and Cooperation in Europe (OSCE) and the United Nations Office of the High Commissioner for Human Rights’ (OHCHR) trial monitoring guidelines (Appendix A).2 This was accompanied by a standard trial monitoring form to be filled out by monitors at court (Appendix B).

---

1 Also known as Forensic Medicine Department
In order to obtain access to Kabul Primary Courts, AFSO sought and obtained, on 28 December 2016, the permission of the Supreme Court through the General-Directorate for Judicial Administration (Appendix C). Throughout the period December 2016 to April 2017, AFSO monitored a total of 40 trials in Kabul Primary Courts 1, 2, 3 and 4. Of these 40 trials, 25 were for murder, 13 were for moral crimes (zina, attempted zina, sodomy and running away from home) and two were trials in which torture was alleged. Primary Courts were selected due to their status as trial courts.

Monitoring was conducted by a team of three monitors who received a one-day training on trial monitoring aims, principles and methodology by AFSO’s Executive Director. Forms were filled out by monitors at court and reviewed by a team comprised of the Executive Director, AFSO mentor and a legal analyst. The focus of the review was on identifying issues with forensic evidence and the capacity of the actors in the courtroom to understand and challenge such evidence. Where the review team identified gaps in the information obtained, these were discussed with the monitors and efforts made to fill the gaps. However, for reasons detailed in the following section, this wasn’t always possible.

Limitations and Challenges

There are numerous challenges to conducting trial monitoring in Afghanistan’s courts.

Firstly, the lack of access to court records. There is no digitised system for court files. Courts do not retain files, which are returned to the Attorney-General’s Department at the conclusion of the trial. Defence lawyers are not provided with briefs of evidence; are only able to view briefs and common practice appears to be taking photos of each document or object on their mobile phones. The quality of many of these photos appears to be low, resulting in documents being largely illegible. AFSO was unable to obtain access to physical evidence or LMD reports through monitoring but was shown typical case files in mobile phone photo format by a number of defence lawyers.

Secondly, courtrooms in Afghanistan are largely closed to the public on security grounds. Although judges made an exception for and appeared receptive to the presence of AFSO trial monitors during the trial phase of proceedings, AFSO trial monitors were blanketly denied access to courtrooms at the handing down of judgments. This meant that AFSO monitors had to follow up with the relevant defence lawyer, in order to find out the result of a case.

Thirdly, the lack of daily court lists or schedules meant that it was difficult to establish which kinds of trials were being held, where and when. It was often difficult to follow a trial as it was often unclear when the case would recommence following an adjournment. Many cases were noted to have frequent adjournments, over the course of months, with little public indication of when the court would reconvene.

Finally, corruption within the legal system is reportedly widespread and appears to be facilitated in varying degrees by the lack of checks and balances upon evidence.

---

3 One for murder and one for drug trafficking.
Finally, given that scientific analysis of evidence within the legal system is poorly understood and rarely introduced in Afghanistan’s courts, monitoring the admission and reception of such evidence, was in and of itself a challenge.

Some general observations on the criminal process in Kabul Primary Courts

AFSO trial monitoring revealed routine violations of the rights of suspects and accused persons provided for in Article 7 of the Criminal Procedure Code (CPC). Of particular concern, severe curtailment of the following rights:

- The right to provide evidence and witnesses; to question witnesses who have testified against them; and to ensure the presence of and question witnesses testifying in their favor;\(^4\)
- The right to express an opinion on the evidence and documents collected;\(^5\)
- The right to have access to materials, documents and evidence related to the case and having enough time to prepare his/her defense statement;\(^6\)
- The right to object to police, experts, prosecutor’s office and court proceedings;\(^7\)
- The right to discredit witnesses;\(^8\) and
- The right to reject a judge, prosecutor, defence lawyer and expert.\(^9\)

AFSO identified systemic problems with substandard crime scene processes and documentation and an inability of defence counsel to review such processes or documentation, including an inability to access physical evidence. Defence counsel are not provided with briefs of evidence and are forced to resort to taking photographs of the brief on their mobile phones, if they are allowed to do so. This severely limits their ability to prepare and present and adequate defence for their clients. AFSO observed that whilst defence counsel were frequently given the opportunity to comment on and rebut prosecution evidence, they were not given the opportunity to adduce their own evidence, with the exception of character witnesses.

AFSO observed that the presumption of innocence of accused persons provided for in Article 5 of the CPC and Article 25 of the Constitution is not reflected in the way that accused persons are presented to the court. In most of the 40 trials observed, the accused appeared in prison clothes, handcuffs and leg shackles, even for minor crimes such as theft, giving an impression of guilt.

In the majority of trials there appeared to be a lack of evidence linking the accused to the crime. Many case files were returned to prosecutors by judges for lack of evidence, and the capacity of prosecutors were observed to be very low. AFSO observed that the lack of diligence on the part of prosecutors and the lack of evidence resulted in numerous accused

\(^4\) Article 7(6).
\(^5\) Article 7(9).
\(^6\) Article 7(11).
\(^7\) Article 7(12).
\(^8\) Article 7(19).
\(^9\) Article 7(20).
persons being acquitted of all charges against them after spending up to eight or nine months in pretrial detention, on charges for which there was little to no prospect of conviction to begin with.

In the majority of trials observed, non-medical forms of forensic evidence, for example, fingerprinting, ballistics and the results of general crime scene processing, were not considered. This is despite the fact that the Ministry of Interior’s Criminal Technique Laboratory has the technical capacity to do such tests. It is unclear whether this is due to a misconception that only Legal Medicine Directorate (LMD) is able to provide “forensic” evidence, resourcing issues within the Criminal Technique Laboratory or lack of understanding of such types of evidence.

Kabul Primary Court 3 was observed to be the only court that physically looks and feels like a court. Unlike in other primary courts, judges in Primary Court 3 wear judicial robes. AFSO observed some trials from other primary courts were referred to Primary Court 3 due the perception that more complex trials should be heard there as the Court had greater capacity to decide more complex legal cases.

The Role of Forensic Evidence in the Criminal Trial

Global advances in science and technology over the past few decades have resulted in forensic science being heavily relied upon as proof by law enforcement, prosecutors and the courts in criminal investigations and trials. Forensic science, when used objectively, impartially and in an evidence-based manner, can make an important contribution to the administration of justice. On the contrary, where forensic science is used in a biased and invalid manner, it can jeopardise the right to a fair trial and result in miscarriages of justice.

Like all forms of evidence, forensic evidence can - and should - be tested. This includes questioning and testing not only the science behind the forensic evidence but also the qualifications and experience of scientists and the scientific methods and techniques which they use in arriving at results. In order to do this there needs to be equality of arms in access to evidence, science and experts, as well as an opportunity for the defence to cross-examine the forensic findings and present an alternative case hypothesis.

Like many states experiencing or emerging from protracted periods of armed conflict, Afghanistan lacks forensic capacity and infrastructure. Much of the science is still misunderstood by some practitioners in the Afghan forensic system, as well as misused in some instances. Afghanistan also lacks an implemented legal framework and legal culture that is conducive to independent review.

Of particular concern to AFSO is the routine admission of evidence based upon scientifically invalid tests by the LMD. Such evidence includes hymen and anal examinations for the purported purpose of determining sexual status, and age determination methods used to purportedly determine chronological age.
Hymen examinations conducted by the LMD for the purported purpose of establishing recent sexual intercourse or “virginity” as sexual status

Hymen examinations involve examination of the appearance of the hymen in women and girls for the purported purpose of establishing whether a woman or girl has had sexual intercourse or is a “virgin”. The examination is typically conducted by visual inspection of the hymenal region, and is often combined with a ‘two-finger test’, which involves the insertion of one or more fingers into the vagina to assess the size of the vaginal opening and to check the degree of vaginal penetrability.\(^\text{10}\) It is a discriminatory and degrading practice that not only lacks any scientific or medical basis, but also – when conducted in circumstances of duress – amounts to torture.

AFSO monitored 13 cases of moral crimes in which the accused was charged with *zina*, attempted *zina*, sodomy, running away from home or a combination thereof. AFSO trial monitoring confirmed that the LMD routinely conducts hymen, gynaecological and anal examinations of women and girls suspected of these crimes, for the purported purpose of establishing whether they have had sexual intercourse. In the majority of the moral crimes cases monitored, the accused was examined by doctors at the LMD and the results were admitted as evidence in the form of a forensic medical report at trial. AFSO monitors observed that in most trials in which an LMD report was tendered by the prosecution, LMD reports were not contested by the defence or by the judge.

Numerous medical studies undertaken in recent decades across multiple countries have demonstrated that there is no scientific or medical basis for using hymen size, morphology, or integrity to determine whether a woman has experienced vaginal penetration, and therefore whether or not she is a “virgin”.\(^\text{11}\) In most cases there is no correlation between a hymen’s appearance and the actual history of prior sexual intercourse.\(^\text{12}\)

Hymen examinations are often undertaken without the consent of the woman or in the context of duress, threat or force.\(^\text{13}\) This may be presumed to be the case where women are incapable of giving genuine, informed consent, such as where they are detained, or where they are referred to LMD in the course of moral crimes accusations. Aside from the trauma of being subjected to a forced gynaecological examination, the result can have devastating

---


\(^\text{12}\) One noticeable exception here may be the diagnosis of sexual abuse in prepubescent females. It is important to distinguish between the different contexts in which a hymen examination may be carried out. Whilst a hymen examination for the purported purpose of determining “virginity” or sexual status has no scientific validity and should not be performed, where there is an allegation of rape, a comprehensive forensic medical examination of the alleged victim, including examination of the hymen, should be performed.

\(^\text{13}\) Brief, p 1.
consequences for women and girls in Afghanistan, which can be the difference between freedom and incarceration, life and death.

AFSO trial monitoring revealed other flaws associated with the admission of forensic medical reports in moral crimes cases.

Firstly, such reports are tendered by the prosecutor without making the author of the report available for examination by the judge or the parties. These forensic medicine reports by the LMD are limited to reporting on their findings without any supporting documentation, such as photographs, nor do they contain any information on the medical examiner’s identity. This makes it impossible for defence lawyers to question the medical examiner on their findings or contest the validity or reliability of the contents of forensic medicine reports. It also makes it impossible to independently review LMD’s work product and findings.

Secondly, judges do not appear to question the validity or reliability of such reports and only rarely request that someone from the LMD appear as a witness to answer questions about the report. AFSO observed only one case out of 40 where the judge summoned a doctor from the LMD to appear as a witness and in that case. The doctor who testified had not conducted the medico-legal examination, nor had authored the report and were unable to answer any questions about it. The judge did not pursue questioning of the witness and did not exclude the report from the evidence.

Thirdly, in cases where women accused of zina plead not guilty and testify to that effect, there appears to be little consideration given to that testimony from all actors in the courtroom, including defence lawyers.

Hymen examinations for the purpose of determining ‘virginity’ as a sexual status have a physical and psychological impact upon women and girls. The examinations can cause physical pain, damage to the hymen, bleeding and infection, as well as acute psychological suffering.\(^\text{14}\) They are also a human rights violation, being a form of inhuman, cruel or degrading treatment prohibited by the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).\(^\text{15}\) Depending on the circumstances in which they are carried out, forced hymen examinations for the purpose of determining “virginity” may also amount to a form of torture, having been found to be so by the European Court of Human Rights and the Inter-American Court of Human Rights.\(^\text{16}\)

AFSO is of the view that hymen examinations conducted by the LMD in the context of moral crimes allegations violate the rights of suspects and accused persons provided in Article 7 of


An Evaluation of Forensic Evidence in Kabul Primary Courts

Afghanistan’s Criminal Procedure Code and the right to a fair trial provided in Article 14 of the International Covenant on Civil and Political Rights. The carrying out of hymen examinations in this context should be viewed as a breach of several constitutional rights including those provided for in Articles 22, 24, 25, 27 and 29, as well as the State’s obligations in Articles 6 and 7.

Case Study: Ms T.

AFSO observed one trial in which seven accused - six men and one woman - were each charged with zina, sodomy and drinking alcohol. Reports from the LMD were tendered which concluded that the female accused, Ms T\(^{17}\), had had both vaginal and anal sex. Ms T. testified as follows:

No one has had sex with me, whether vaginally or anally. The report of the Forensic Medicine Department is incorrect. It was ordered to be manufactured as such. I admit that I have drunk alcohol but I deny having any type of sex, zina or sodomy. I want to be examined through another, independent source.

A police officer from District 10 (hawze 10) asked me to come to his office. He put a key on the table and said: “This is the key to my apartment... If you promise to become my guest, I will let you and your accomplices go free. If you don’t, you will go to Pul-e Charkhi prison.”\(^{18}\)

During the investigation a prosecutor from the east zone of criminal investigation asked me to have sex with him. He told me, “if you promise to have sex with me I will close your case”. I did not accept this and therefore this is my fate.

AFSO trial monitors observed that there was no response from the judge, the prosecution or defence counsel to Ms T.’s request for an independent medical examination. The judge did issue an arrest warrant for the police officer that she accused of solicitation and threats but it is not known whether the police officer was ever arrested.\(^{19}\)

All seven accused were convicted of zina and sodomy and sentenced to five years in prison. All seven have appealed the decision and at the time of writing this report the case is pending before the Appeals Court.

---

\(^{17}\) Form Zone 2-2, Kabul, 11 Dalwa 1395.

\(^{18}\) Pul-e Charkhi is the largest prison in Afghanistan. Telling someone they will go to Pul-e Charkhi, whether they would or not, would be considered a direct threat, given its notorious history as a center for torture, summary executions and enforced disappearances.

\(^{19}\) One of Ms T.’s co-accused, Mr H., testified that the police investigation was instigated after a dispute between him and a neighbour over water and sewerage drainage. Mr H. stated that the neighbour had connections with District 10 police command. Mr H. accused one of the investigating police officers of demanding a 10 000 Afs bribe to make the police investigation “go away”, which Mr H. refused to pay.
Gynaecological examination of married woman accused of *zina*

In cases where the *zina* allegation is of consensual sexual intercourse between partners who are not married to each other, as DNA testing is not available in Afghanistan, the only method used for determining whether sexual intercourse took place is that of establishing the presence of sperm. In the absence of DNA testing it is impossible to link a particular sperm sample with a particular individual, however, AFSO trial monitors observed one case where this appeared to be the basis for *zina* convictions.

**Case Study: Provincial Council members and married women**

Two men and two married women were charged with *zina*\(^\text{20}\). The two men were members of the Provincial Council of a province which AFSO has chosen not to name in this report. All four accused were arrested by police at approximately 0200h at a private apartment and sent to LMD. All four accused tested positive to alcohol consumption and examination of the two women detected the presence of sperm.

The prosecution tendered statements purportedly by the two male accused, in which they stated that they had paid 16 000 Afs to the women and had also smoked hashish with them. The two male accused testified that their statements had been taken by force by police and the contents as read out to the court were not true. The male accused claimed that they were forced to sign the statements by placing their thumbprint on them but were not allowed to read the contents. The prosecutor rejected this claim and the judge did not say or do anything about it. No such amount of cash was recovered from the scene or from the female accused.

One female accused testified that they had gone to the apartment to celebrate a birthday but instead just had dinner. The other did not testify other than state that her lawyer would make submissions on her behalf. It is unclear what exact type of testing the LMD conducted in these particular cases as their reports were not available. Nevertheless, the LMD routinely conducts visual examinations under a microscope of swabs collected from the accused to determine the presence of sperm. Defence counsel submitted to the court that the sperm recovered from their clients was that of their respective husbands, who did not attend the apartment that evening, and that in the absence of a DNA test, the presence of sperm is inconclusive. Defence counsel informed the court that the two husbands were present outside the courtroom and available as witnesses, however, the judge did not call them in, nor where they questioned by the court. Despite the arguments made by the defence, all four accused were convicted of *zina* and sentenced to five and a half years in prison.

As sperm can survive in the vagina and cervix for several days after sexual intercourse, it simply cannot be determined whose sperm it is. It is entirely possible that the sperm recovered belonged to the women’s husbands as claimed. Testing sperm for DNA can indicate who the sperm donor was, as correctly indicated by the defence counsel. In the absence of DNA testing it is impossible to link a particular sperm sample with a specific individual.

---

\(^{20}\) Zone 4-4, Kabul, 21 Hoot 1395.
AFSO also observed that alcohol testing was frequently used as a basis for submitting that women who tested positive to alcohol must be immoral and therefore must also have engaged in illegal sexual activity.

**Anal examinations for the purported purpose of establishing sodomy**

Anal examinations in cases of alleged sodomy are conducted on both men and women for the purpose of establishing anal intercourse where such sexual activity is illegal. Anal examinations involve a visual inspection of the anal area and often involve the insertion of a finger or tube on the presumption that there are characteristic signs that correlate with consensual anal intercourse, namely laxity of the anal sphincter.\(^{21}\) Such examinations are based on the incorrect assumption that these examinations can detect decreased anal sphincter tone and that this is a reliable sign of consensual anal intercourse.\(^{22}\) There is no scientific or medical validity for such assumptions.\(^{23}\)

There is no standardised, quantifiable method for describing anal sphincter tone on digital rectal examination and no data to support any correlations between digital anal examinations and actual anal sphincter pressures.\(^{24}\) Variability in anal sphincter tone and anatomical appearance mean it is difficult to distinguish between what is normal and what might be clinically significant.\(^{25}\) Decreased anal sphincter pressure may be due to other causes such as medical conditions including common occurring ones such as haemorrhoids, chronic constipation or irritable bowel syndrome.\(^{26}\)

As with forced hymen examinations, forced anal examinations can be physically painful and psychologically detrimental to those undergoing them. They are degrading and humiliating, and, like forced hymen examinations, a form of cruel, inhuman and degrading treatment and torture.

Despite the lack of medical or scientific validity of anal examinations as a means of identifying previous consensual sex, the LMD appears to routinely conduct such examinations in the context of zina and sodomy investigations. AFSO monitored 13 trials of so-called moral crimes in which the accused was charged with zina, attempted zina, sodomy, running away from home or a combination thereof. Within these 13 trials, two involved male victims. In every case monitored, the LMD report was tendered by the prosecution with little opportunity for defence counsel to contest the evidence contained therein. AFSO trial monitoring revealed that anal examinations are predominantly being conducted on women who are accused of zina, parallel to hymen examinations. Women accused of zina are

---


\(^{22}\) Ibid., p 2

\(^{23}\) This report is concerned with anal examinations conducted for the purpose of establishing consensual anal sex. It does not address acts of forced sodomy (male rape).


\(^{25}\) Ibid.

\(^{26}\) Ibid.
therefore being forced to undergo two types of degrading tests, neither of which is medically or scientifically valid, both of which have been found to constitute torture and ill-treatment when conducted by force or in situations of duress.

The same problems identified in respect of the admission of forensic medical reports containing the results of hymen examinations also apply to forensic medical reports containing the results of anal examinations. LMD reports lacking supporting documentation, such as photographs, are tendered with the anonymous author of the report being unavailable for examination, making it impossible for defence counsel to contest the evidence. Despite these serious procedural shortcomings, and the fact that such tests have no medical or scientific validity, LMD reports appear to be accepted by judges, and the parties, without question in the majority of cases.

As with hymen examinations above, AFSO is of the view that where convictions are sustained on the basis of anal examinations admitted as evidence, this may violate the rights of suspects and accused persons provided in Article 7 of Afghanistan’s Criminal Procedure Code and the right to a fair trial provided in Article 14 of the International Covenant on Civil and Political Rights. The carrying out of anal examinations should be viewed as a breach of numerous constitutional rights, including those provided for in Articles 22, 24, 25, 27 and 29, as well as the State’s obligations in Articles 6 and 7.

**Case Study: Police shooting at Checkpoint**

Three friends who had known each other for four years, Mr A., Mr S. and Ms F. were travelling in a car together. As they approached a checkpoint, a police officer waved at them to stop, however, they failed to stop. As they drove through the checkpoint, police shot at the car and Mr S. was killed. After the incident, Ms F. was sent to LMD for examination and LMD concluded that there had been possible sodomy. Ms F. made a statement admitting to one act of sodomy. She was convicted and received a one year sentence for sodomy. Mr A. was convicted of sodomy and being an accessory to murder and sentenced to three and a half years in prison. The police officer who shot at the car, Mr K., was reported to be on the run.

It is unclear on what basis Mr A. was convicted of being an accessory to murder, however, it may be that police blamed Mr A. for the death by not stopping at the checkpoint as directed. AFSO trial monitors observed that there appeared to be no interest in investigating the circumstances of the incident, including why the car failed to stop at the checkpoint and how the police officer came to fire at the passengers inside it. Instead, there appeared to be a preoccupation with proving moral crimes unrelated to the incident, despite the fact that the surviving passengers had just endured the traumatic shooting death of their friend.

In another case, a hotel manager who had helped what appeared to be a young couple in need of shelter was charged with “providing an environment for sodomy” after the young man abandoned the young woman at the hotel. It is unclear whether the hotel manager was convicted.

---

27 Zone 1-7, Kabul, 28 Hoot 1395.
28 Zone1-3, Kabul, 6 Hoot 1395.
Age determination

In Afghanistan most births are undocumented. Birth certificates are not issued, nor required, and are virtually non-existent. The national identity card, tazkera, is not routinely issued and is obtained upon individual application. Obtaining a tazkera can be difficult for those who fled or where displaced from their ancestral districts over the course of Afghanistan’s four decades of armed conflict, as current procedure dictates that they must be obtained in the ancestral district, not in Kabul or current place of residence. Although tazkeras are increasingly required for interaction with the state, for example, enrolment in school, there remain many Afghans who do not have a tazkera, or any other form of state-issued identification to confirm their chronological age. Where age becomes an issue at trial, for example because the accused claims to be a juvenile but has no documentary evidence of their minor status, Afghan courts refer the individual to LMD for age determination testing.

Developmental age through childhood can be measured in several ways, including skeletal maturity, dental maturity and physical maturity. Skeletal and dental maturity is usually assessed by radiograph/x-ray, whereas physical maturity is usually based on physical examination. Developmental age, however, is not equivalent to chronological age. Developmental age is the age measures physical, behavioural and cognitive development whereas chronological age is a child’s age based on their date of birth. and there is no medical process that can ascribe a precise chronological age to an individual. Determination that an individual has attained the age of 18 and is therefore an ‘adult’ is an administrative determination, not a medical one.

One expert has concluded that the average age at which males attain skeletal maturity is 17.6 years, i.e, whilst still minors. There is however a normal variation in the chronological age at which males generally achieve skeletal maturity of between two and five years. Another limitation inherent in the use of wrist x-rays is that such an x-ray is only informative to the point when the individual reaches skeletal maturity as thereafter, the skeletal status of the person’s wrist will remain unchanged. Similar limitations are inherent in the use of dental examinations and dental x-rays.

AFSO trial monitors observed one trial in which an LMD report was tendered in which it was stated that a victim of rape, forced marriage and abduction was 19 years old. The judge did not accept the LMD report and opined that the victim appeared no older than 15. Although AFSO was unable to access the LMD report, AFSO understands that LMD’s general practice is to x-ray the wrist and arm and examine the teeth, especially molars. Even with this combination of tests, it is impossible to determine a chronological age of 19. AFSO has regularly observed LMD provide a surprisingly small age range in its age estimations. As there

30 Ibid., 380.
31 An age of uncertainty - Inquiry into the treatment of individuals suspected of people smuggling offences who say they are children, p 61.
32 Ibid., p 64.
33 Ibid., p 56.
34 Zone 3-12, Kabul, 21 Hamal 1396.
35 In men, facial hair growth is also examined.
is a wide normal variation in the age at which humans reach both skeletal and dental maturity, at best, an age range of several years could be provided. For that reason, such examinations should not be considered reliable in the determination of chronological age.

The use of developmental markers, be they skeletal, dental or other, for age assessment purposes, is imperfect and where they are used the quality of their evidence should be challenged. Instead of relying on LMD reports, which at best only provide an age range, which may be inaccurate, prosecutors need to make comprehensive inquiries of the accused’s age such as checking school enrolment, other family members’ tazkeras and Census Department records to establish that the accused has not in fact been issued a tazkera. Judges should insist on such enquiries being made before relying upon LMD reports in making their age determinations. Age assessment procedures should be undertaken only as a measure of last resort and only with the informed consent of the individual. Where there is any doubt as to whether an accused has attained the age of 18 years, they should be given the benefit of the doubt.

Lack of evidence linking the accused to the crime

AFSO observed numerous trials in which the link between evidence, the accused and the scene of the crime was tenuous at best. In numerous trials, including those for the crime of murder, AFSO observed no evidence from the scene of the crime, such as physical evidence or samples collected at the scene, photographs of the scene, or crime scene documentation notes. AFSO also observed that police officers that attended the scene of the crime very rarely give evidence at trial.

Case study: Death of a daughter-in-law

Mr H. was charged with arson and the murder of his daughter-in-law, Ms. Z. The prosecution alleged that Mr H. had killed his daughter-in-law by intentionally setting her on fire. Mr H. denied the allegations. Mr H. testified:

[Ms Z.] was cooking in the kitchen. There was a gas explosion, a gas bottle exploded, and she was burned. We took her to the hospital. Initially, her condition was stable. She was talking to me and asking for food and milk. I spent 50 000 Afs on the hospital. She was my daughter-in-law why would I have any reason to kill her?

AFSO observed that despite the nature of Ms Z.’s death and the murder charge, there was a paucity of physical evidence. There was no report from LMD on the examination of the body and no autopsy conducted. There were no reports or photos of the alleged crime scene, the results of any tests run on samples recovered from the crime scene, or any potential items of evidence recovered from the scene. Nobody from the police, Criminal Technique or the LMD gave evidence. No witnesses from the hospital were called and no documentation supporting Mr. H’s claim of paying for the hospitalization from the hospital was produced. Mr H. presented

36 Ibid., 387.
38 Out of the 36 trials monitored, in only one did police testify - that trial was for the murder of the children of a police officer.
39 Zone 2-1 and Zone 2-1A, Kabul, 27 Jaddi 1395.
three witnesses, none of whom witnessed the incident, all of whom provided only character evidence that Mr H. was a good man and he was innocent. After hearing these three defence witnesses, the Judge declared that three witnesses were enough and he didn’t want any more witnesses to be called. Ultimately, Mr H. was acquitted due to lack of evidence, having already spent eight months in prison.

**Recommendations**

- Training for judges, prosecutors, defence lawyers and police on the Criminal Procedure Code and use of evidence.

- All police officers are to fulfil their obligations under Article 80 of the Criminal Procedure Code to investigate crime and document their actions in fulfilling these obligations.

- The Attorney-General needs to establish clear policies and procedures on the sharing of information between the parties. A copy of the brief of evidence to be made available to defence in advance of the trial. Photocopiers need to be available at courts so that copies of case files can be copied for defence counsel.

- The Ministry of Public Health should take immediate steps to ensure implementation of its directive prohibiting doctors from performing forced gynaecological examinations.

- The Legal Medicine Directorate under the umbrella of the Ministry of Public Health is included in in the directive to prohibit forced gynaecological examinations and therefore must immediately stop conducting forced gynaecological examinations and forced anal examinations.

- The Office of the President should issue a decree prohibiting hymen and anal examinations for the purported purpose of establishing whether a person had had consensual sexual intercourse or is a “virgin”. The Ministry of Interior and Attorney-General’s Department should issue a corresponding directive instructing police officers and prosecutors not to refer individuals for these tests in these prosecutions for consensual *zina*, attempted *zina*, running away from home and consensual sodomy. The Supreme Court should issue a directive to judges to not order such examinations be carried out, and to not allow the results of such examinations carried out without the consent of the individual being admitted as evidence. AIHRC should establish a program for monitoring the implementation of the prohibition.

- Where an accused’s status as a minor is in question, prosecutors should make comprehensive inquiries such as checking school enrolment, other family members’ tazkeras and Census Department records, before relying upon LMD reports in making their age determinations. Judges should insist upon such measures. Age assessment procedures should be undertaken only as a measure of last resort and only with the informed consent of the individual. Where there is any doubt as to whether an accused has attained the age of 18 years, they should be given the benefit of the doubt.
Appendix A
Trial Monitoring Methodology

Context

1. Trial monitoring is part of the larger project, 'Strengthening the Afghan judicial system's capacity to understand and accept forensic evidence as a means to establish the truth, deliver justice and prevent the miscarriage of justice'.

Aims

2. To compile reliable information on practices of courts in Kabul in relation to:
   2.1 criminal defence practices;
   2.2 admission of forensic evidence;
   2.3 admission of expert opinion evidence; and
   2.4 the ability of the defence to challenge evidence.

3. To monitor categories of criminal cases where the abuse or misuse of forensic evidence is routinely contributing to miscarriages of justice:
   3.1 serious violent crimes such as homicide;
   3.2 so-called moral crimes (adultery/attempted adultery/running away); and
   3.3 criminal cases where the Accused alleges torture.

4. To produce a final report with the main observations, gap analysis and recommendations that will be widely disseminated among all stakeholders in the justice system, university law faculties, government departments and civil society.

5. To build the capacity of AFSO and law students as independent human rights monitors.

Guiding principles


7. Impartiality: trial monitors are impartial, treat all parties equally and don't take sides.

8. Confidentiality: trial monitors respect the confidentiality of non-public information obtained in the course of monitoring.

Security

9. It is essential that monitors do not put their own safety or security at risk. If monitors feel threatened or intimidated during monitoring, they should leave the court immediately and inform Project Director and AFSO Executive Director.

10. If monitors witness any security related incidents during their monitoring, these incidents should also be reported to Project Director and AFSO Executive Director.
Prior to Court

11. Project Director and AFSO Executive Director, is to meet with judges, Prosecutor's Office, Bar Association, Attorney-General and Ministry of Justice to brief them on the trial monitoring project. These meetings should also discuss whether there is a need for an MoU, how trial monitors are to be identified, access to court files, communication about upcoming trials, and any other logistical issues.

12. In all meetings with judicial actors, both before and during trial monitoring, AFSO staff and monitors should:
   12.1 demonstrate respect for the judicial function and express support for overcoming problems judicial actors may face;
   12.2 highlight the good intentions of the trial monitoring project and that monitors are committed to independent observation; and
   12.3 recognise that communicating effectively and building trust with judicial actors is important for access in the short term and may also contribute to the likelihood of the final report being accepted and implemented in the longer term.

13. Prior to attending court all monitors are to be briefed by the Project Director and AFSO Executive Director on the aims and objectives of the trial monitoring project and AFSO's wider work and mandate. At this briefing all monitors are to be provided with packs which shall include:
   13.1 AFSO trial monitoring methodology;
   13.2 several copies of the AFSO trial monitoring form;
   13.3 relevant provisions of Criminal Procedure Code, Penal Code and Constitution;
   13.4 forensic brief, "Virginity and Hymen Testing: No Factual, Scientific or Medical Basis";
   13.5 introductory material on torture; and
   13.6 official letter signed by AFSO identifying the individual as an AFSO trial monitor and attaching copy of any official authorization letter from the courts or Attorney-General.

14. Monitors should seek instructions from the Project Director on which court/s to attend.

At Court

15. Monitors should carry with them at all times the official AFSO letter and any official authorization letter from the courts or Attorney-General.

16. Monitors should arrive early allowing enough time to enter the court and be seated before proceedings commence.

17. Monitors are to use the AFSO Trial Monitoring Form and should endeavour to fill out as many sections on the form as they can for each hearing. It may not be possible to enter data for every section at every hearing. In addition to the form, monitors should take
diligent notes throughout the proceeding on the issues outlined in Section 2 of this Methodology.

18. If addressed by court officials and other actors, monitors should clearly articulate their position as an independent trial monitor for AFSO and be prepared to explain the trial monitoring project.

19. Monitors must be prepared to show program documents and ID as well as be able to articulate clearly the legal basis, purposes and objectives of the program to all court officials and legal actors, particularly if access is denied.

20. If access is denied, the monitor should request a meeting with the judge to explain the legal basis, purpose and objective of the project. If denial persists, the monitor should inquire as to the specific legal basis or reason why the right to a public trial in the case is limited. Monitors should note any problems with access or reasons for denial of access in the trial monitoring form.

21. Monitors shall pay full attention to the proceedings and take notes diligently. Facts should be distinguished from hearsay. Ensure you write clearly so that others can read your handwriting.

22. Monitors should at all times be aware not only of their impartiality but also of people's perceptions of impartiality. This means:

- to the extent possible monitors should chose a neutral place to sit in the court (ie, not immediately next to or behind either the prosecution or the defence);
- engaging professionally with all court actors regardless of affiliation;
- not making statements of opinion to court officials, parties or others;
- not talking to media; and
- when obtaining further information, ie through follow-up interviews, being balanced in collecting different views – don’t just follow up with the defence, also follow up with the prosecution.

23. Monitors must respect the principle of non-intervention at all times. This means:

- do not intervene during the course of hearing;
- do not seek to influence the proceedings in any way; and
- if asked for an opinion or to participate in the hearing, explain the principle of non-intervention and decline to comment or act.

24. Monitors must ensure the safety and confidentiality of all their notes and other materials at all times.

25. Monitors should endeavour to stay for the entirety of the proceedings.

26. Remember the role of the trial monitor is to assess the fairness of the trial, not the guilt or innocence of the Accused.

After Court
27. Monitors are to return to AFSO office to secure all trial monitoring forms and notes.

28. AFSO’s Executive Director will conduct a preliminary review of the trial monitoring forms and notes and identify any gaps or issues for further discussion with the monitor.

29. At the end of each week, AFSO staff will scan and email the trial monitoring forms and notes to AFSO Legal Analyst for further review.

9 November 2016

Appendix B
Trial Monitoring Form

<table>
<thead>
<tr>
<th>AFSO TRIAL MONITORING FORM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monitor name</td>
</tr>
<tr>
<td>Date</td>
</tr>
<tr>
<td>Start time</td>
</tr>
<tr>
<td>End time</td>
</tr>
<tr>
<td>Name of Court</td>
</tr>
<tr>
<td>Name of Judge</td>
</tr>
<tr>
<td>Name of Accused</td>
</tr>
<tr>
<td>Gender of Accused</td>
</tr>
<tr>
<td>Age of Accused</td>
</tr>
<tr>
<td>Charge/s</td>
</tr>
<tr>
<td>Factual description of alleged conduct according to Prosecution</td>
</tr>
<tr>
<td>Name of Prosecutor</td>
</tr>
<tr>
<td>Name of Defence lawyer</td>
</tr>
<tr>
<td>Contact details of Defence lawyer if available</td>
</tr>
</tbody>
</table>
How did you find out about the hearing?

<table>
<thead>
<tr>
<th>MORE INFORMATION ABOUT THE ACCUSED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is the Accused in detention or on bail?</td>
</tr>
<tr>
<td>Are there any issues of mental capacity with the Accused?</td>
</tr>
<tr>
<td>If yes, what is the nature of the Accused's condition?</td>
</tr>
<tr>
<td>What action, if any, did the Judge take in this regard?</td>
</tr>
<tr>
<td>Was the Accused represented?</td>
</tr>
<tr>
<td>Private or legal aid?</td>
</tr>
<tr>
<td>Was the Accused's Defence lawyer present?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>OPEN COURT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Was anyone denied entry to the Court? If yes, reasons?</td>
</tr>
<tr>
<td>If it was a closed hearing, what were the legal grounds?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PRESUMPTION OF INNOCENCE / PRIVILEGE AGAINST SELF-INCRIMINATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Was there a perception of the Accused being guilty? (eg wearing handcuffs, shackles, prison uniform, being kept in a cage?)</td>
</tr>
<tr>
<td>Was the Accused’s right to silence explained?</td>
</tr>
<tr>
<td>Did the Accused invoke this right?</td>
</tr>
<tr>
<td>Was the Accused informed that they were not bound to answer questions and refusal to answer could not be held against them?</td>
</tr>
<tr>
<td>Did the Prosecution or Judge seek to draw any</td>
</tr>
<tr>
<td>Question</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
</tr>
<tr>
<td>adverse inferences from Accused exercising right to silence?</td>
</tr>
<tr>
<td>Did the Judge or Prosecutor pressure Accused to plead guilty?</td>
</tr>
<tr>
<td>EVALUATION OF EVIDENCE</td>
</tr>
<tr>
<td>Did the Accused testify?</td>
</tr>
<tr>
<td>Summary of Accused's testimony</td>
</tr>
<tr>
<td>How did the Accused testify? (eg during the proceedings, by way of written affidavit, etc)</td>
</tr>
<tr>
<td>Was the Accused disadvantaged compared to the prosecutor? If so what was the disadvantage? (eg, evidence of Accused excluded without grounds, Accused given limited time to present Defence, etc)</td>
</tr>
<tr>
<td>If so, did the Accused complain about disadvantage?</td>
</tr>
<tr>
<td>Did the Judge fail to consider relevant evidence?</td>
</tr>
<tr>
<td>If yes, what?</td>
</tr>
<tr>
<td>Did the Judge take all reasonable steps to exclude irrelevant and/or inadmissible evidence from being heard?</td>
</tr>
<tr>
<td>If not, explain</td>
</tr>
<tr>
<td>Did the Accused and/or their lawyer have fair opportunity to:</td>
</tr>
<tr>
<td>Rebut the prosecution’s findings?</td>
</tr>
<tr>
<td>Comment on written and oral examinations, and question and cross-</td>
</tr>
<tr>
<td>Question</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
</tr>
<tr>
<td>examine witnesses and experts?</td>
</tr>
<tr>
<td>Suggest presentation of new evidence?</td>
</tr>
<tr>
<td>Present evidence?</td>
</tr>
<tr>
<td>Present Defence case?</td>
</tr>
<tr>
<td>Were any witnesses present in the courtroom before they testified?</td>
</tr>
<tr>
<td>Were witnesses examined in presence of other witnesses not previously examined?</td>
</tr>
<tr>
<td>Who examined the Accused?</td>
</tr>
<tr>
<td>Summary of Accused's testimony</td>
</tr>
<tr>
<td>Were any witnesses called?</td>
</tr>
<tr>
<td>Describe witnesses and what they testified about</td>
</tr>
<tr>
<td>Did any witnesses appear to be pressured? How? By who?</td>
</tr>
<tr>
<td>Was any physical evidence admitted?</td>
</tr>
<tr>
<td>Who admitted the physical evidence?</td>
</tr>
<tr>
<td>Describe any physical evidence admitted</td>
</tr>
<tr>
<td>EXPERT EVIDENCE</td>
</tr>
<tr>
<td>Were any expert reports admitted in evidence? (eg from forensic medicine)</td>
</tr>
<tr>
<td><strong>Who wrote the expert report? (name and/or organization)</strong></td>
</tr>
<tr>
<td>---</td>
</tr>
<tr>
<td><strong>Who tendered the expert report? (e.g., Prosecution, Accused or Judge)</strong></td>
</tr>
<tr>
<td><strong>Did the Judge explain to the Accused and/or their lawyer their right to challenge the expert report?</strong></td>
</tr>
<tr>
<td><strong>Did the Accused and/or their lawyer accept the expert report?</strong></td>
</tr>
<tr>
<td><strong>Did the expert who wrote the report testify? If yes, about what?</strong></td>
</tr>
<tr>
<td><strong>If the expert testified, did the Judge explain to the expert their rights and duties?</strong></td>
</tr>
<tr>
<td><strong>Did the Judge explain to the Accused and/or their lawyer their right to challenge the expert’s testimony?</strong></td>
</tr>
<tr>
<td><strong>Did the Accused and/or their lawyer accept the expert’s testimony?</strong></td>
</tr>
<tr>
<td><strong>Did the Accused and/or their lawyer try to introduce an independent expert report or witness?</strong></td>
</tr>
<tr>
<td><strong>Was evidence presented as to whether the crime scene examination and any forensic procedures were performed according to established procedures?</strong></td>
</tr>
<tr>
<td><strong>RIGHT TO A FAIR TRIAL</strong></td>
</tr>
<tr>
<td><strong>Were there any motions to exclude evidence on the basis that it had been illegally obtained?</strong></td>
</tr>
<tr>
<td>Question</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Was the Prosecution given the opportunity to make submissions on how the criminal law should be applied and what punishment should be given in the event of a finding of guilt?</td>
</tr>
<tr>
<td>Was the Accused given the opportunity to make submissions on how the criminal law should be applied and what punishment should be given in the event of a finding of guilt?</td>
</tr>
<tr>
<td>Did you observe any barriers to the Accused in their defence?</td>
</tr>
<tr>
<td>Explain</td>
</tr>
<tr>
<td>Was the Accused provided with time and facilities to meet with their lawyer in private?</td>
</tr>
<tr>
<td>Was the Accused and/or their lawyer granted access to appropriate information, e.g. the brief of evidence?</td>
</tr>
<tr>
<td>Was the Accused and/or their lawyer given advance notification of experts/witnesses to be called?</td>
</tr>
<tr>
<td>Did the Accused have the opportunity to present independent expert or opinion?</td>
</tr>
<tr>
<td>Was the Accused present during the trial?</td>
</tr>
<tr>
<td>Was any record of the hearing made?</td>
</tr>
</tbody>
</table>
If a verdict was given, was it well reasoned? Based on evidence?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

Did the Judge ask the parties for any additional evidence? If so, who and what?

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
</table>

**Torture**

Were any allegations of torture or forced confession made by the Accused?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

If yes, what were the allegations?

What was the reaction of the Judge?

What was the reaction of the Prosecutor?

Were any statements admitted as evidence that were alleged to be the result of torture or forced admission?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

Were there any motions to exclude evidence on the basis that it had been illegally obtained?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

**Additional notes on any topic**
Appendix C: The Permission of Supreme Court

AFSO obtained official permission to conduct the trial monitoring at the Kabul primary courts.
نظر تحلیلی:

طرحمندی: در یک موضوع مطرح بحث مطالعه ظریف دیده می‌شود که استدلالاتی فوق دارای دو بخش پیشنهادی بوده که بخش اول آن تدوین برنامه‌های آموزشی فوریت‌پذیرک ساینس با اعلام علمی و نوش این در حل مسائل و بخش دوم آن حضور هیأت علمی در ورود محاکمه در یک زمینه اماه نظامات و نویه و ترتیب گزارش از خلاف و جالب ها را در برخواهد گرفت.

در مورد اول باید مذکر شد گرچه برنامه‌های آموزشی خالی از مقادیر و لی ارائه اول تاکید تدوین است اینکه تدوین چنین برنامه‌های در مورد جرم جرمیکی، کشف جرم و تحقیق آن بیشتر مربوط به ارگانهای کشفی (پلیس) و تحقیق (جنازه‌ی) گردد، بنابراین مؤسسه مجازی علمی افغانستان میتواند در تفاهم با ارگانهای مربوطه در زمینه تدوین پرونده‌های آموزشی برای هدف‌های کشفی و تحقیق هنکاری نماید. تا یک مورد در برای همه مردم جامعه هدف باشد.

در مورد دوم باید مذکر شد که به اساس صلاحیت ماده 18، قانون اساسی در اساس ماده 17، قانون تشکیل و صلاحیت قوه قضاییه: در محاکم افغانستان محاکمه به صورت علیه داری میگردد و مربوط به اقدامات بارز باشد. احكام قانون در آن حضور باید و نتایج به صورت مکتوب و با امضای مصون به این جا دیده نمی‌شود.

با انتظار طریقه سطح دوم محاکمه پیشنهادی تقدیم است: قضاوت نتایج ایندیک‌مکزیک

نظر عمومی برای تحلیل و مطالعات

مهمان شد: موضوع به مقام عالی است محاکمه پیشنهادی تقدیم است: قضاوت نتایج ایندیک‌مکزیک

رئیس عمومی برای تحلیل و مطالعات

با احترام
An Evaluation of Forensic Evidence in Kabul Primary Courts
جمهوری اسلامی افغانستان
سته محکمه
آمیت عمومی اداری قره قضائیه
ریاست دفتر

به موسسه محترم خدمات علوم عدلى

به جواب نامه شماره 96 مورخ 1395/1/2 شما نگاشته می‌شود:

استهدافی شما در مورد تدوین برنامه‌های اموزشی فوریتکس ساپسیک یا علوم عدلى و نقش ان در حل قضایا برای قضات و حضور هیئت‌های شان در روند محاکمات در یک دوره به مناسبه غرض ابراز نظر به ریاست محترم عمومی تنظیم و مطالعات فرستاده شد. اینک نظر ان ریاست که مورد تایید مقام محترم سره محکمه قرار و گرفته غرض اجرایات بعدی به شما ارسال است.


