

FOSTER RETURNS FROM AFGHANISTAN

عرض سرام

اداره عالی قضای و زارت عدلیه افتخار دارد که در عصر
فرخنده نظام جمهوری کشور عزیز و در تحت قیادت ورهنمائی
هی خرد منانه بناغلی محمد داود رئیس دولت و
صدر اعظم ارلین رساله فیصله های قطعی مجاکم رابعنوان
«ریور های قضائی افغانی» تنظیم و به غرض انشاف هئیت
حقوقی و ایزان معلومات قضائی علاقمندان تقدیم میدارد .

این نشریه به کمک، حوصله و پشت کار یک عده اشخاص
ندزین گردیده بعد از غور و دقت لازمه بپایه تکمیل رسیده است.
اداره عالی قضاء زحمات و مساعی تمام این اشخاص را مخصوصاً
دو نفر مشاور امریکائی بناغلو

سایپلر (Richard C Csaplar, Jr.)

و پروفیسور فاستر G. W. Foster, Jr.

که در تدوین و ترتیب آن مشوره های ذیقیمت داده اند به نظر
قدر دیده ابراز امتنان مینماید .

همچنان برای بهتر شدن طرز العمل نشر فیصله ها در
آینده ، نظریات سود مند اهل نظر و دیگر علاقمندان را بکمال
خوشی می پذیریم .

What appears on page 11 is reproduced from the introductory page of Volume One of AFGHAN JUDICIAL REPORTS, published near the end of Professor G. W. Foster, Jr.'s five-month stay in Afghanistan. From February to July 1976, Foster served as Legal Advisor of the Judiciary Branch of the Republic of Afghanistan, going at the request of the country's Chief Judicial Administrator, Justice G. A. Karimi.

"Two gifted young Afghan lawyers and I worked as a team in preparing—first in English—the case summaries, headnotes, indexing and cross-referencing for the first volume, using translations from Dari in which the court opinions had originally been written," Foster explained. Once satisfied with the headnotes and other materials, the team had these editorial products translated into Dari where they became part of the official 1 AFGHAN JUDICIAL REPORTS. A limited unofficial English-language edition of Volume 1 was reproduced by the U.S. A.I.D. Mission in Afghanistan to assist English-speaking foreign lawyers and scholars who work with Afghans on problems of their legal order.

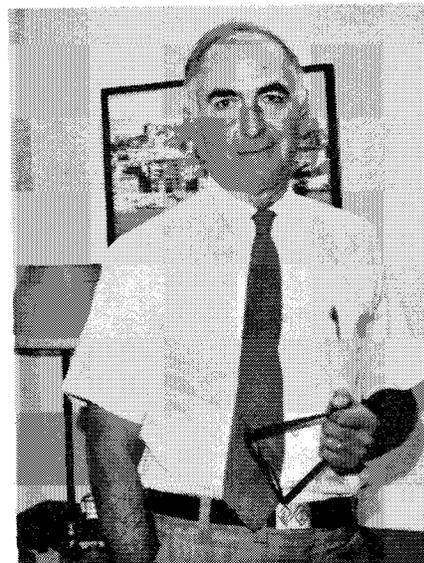
"I feel a bit sheepish about the credit they gave my Fulbright predecessor, Attorney Dick Csaplar of Boston, and me for the appearance of Volume 1," Foster said. "First, it overlooks the important contributions to the judicial reporting project made by still earlier Fulbright lawyers—notably my Wisconsin colleague, Professor Larry Church, and John Huffer who followed him. Second, and more important, no credit was stated for Justice Karimi himself although the project succeeded only because of his continuing and effective support."

Professor Foster and his wife, Jimmy, were enthusiastic about their stay in the high and isolated Asian country. "A beautiful place, though often harshly and starkly so. And we really liked the Afghans themselves—handsome, bright people whose independence of spirit and pride attracted us even when we so often found them otherwise unfathomable by our Western eyes."

The present Afghan legal order reminded Foster of patterns evident in the American legal past. Fashioning a nation creates pressures for defining national norms and enforcing them uniformly, thus cutting deeply into a society where the family, the village—and in Afghanistan, the tribe—enjoyed large areas of autonomy when it came to setting and enforcing standards. Statutes meant to set national norms have poured forth for half a century and more in the form of decrees issued by the Head of State. But nowhere compiled or indexed and rarely published in significant quantities, the statutes are difficult to find and only slowly are having impact.

During his stay, Foster helped launch a project to compile and index all previously decreed Afghan statutes, with a view to making available in time accurate statements of the contemporary statutory law of the country. If the compilation project goes forward and the newly launched AFGHAN JUDICIAL REPORTS becomes a continuing reality, legal education in Afghanistan is likely to be the next target for change. Today it concentrates on such subjects as international law, comparative law (without knowledge of local law to compare), and foreign law (both extinct and otherwise). The Afghan Bar—made up almost exclusively of judges and public prosecutors—regard their university legal educations as largely irrelevant to the urgent needs of the country and they press for the introduction of teaching material based on Afghan law. The availability of reported court opinions and compiled statutes open the way to this.

Change seems to be in the judicial air of Afghanistan and the Fosters were grateful for their brief involvement with what they thought a dynamic, appealing and exciting country.



Professor Foster