



## Death, Hope and the Cost of a Bullet in Afghanistan

~ Dov Martin ~ (Member David Hodson) ~



Major David Hodson, a small-town criminal defence lawyer and military reservist, was deployed in Afghanistan as a member of the International Security Assistance Force, as part of Operation Enduring Freedom. Approximately 99,000 soldiers from 39 countries formed the coalition in Afghanistan, and 68,000 of these troops were American. Major Hodson was an advisor to the Afghan National Army and served under American command.

The Afghan national Army, otherwise known as the ANA, is integral to the people of Afghanistan, and forms the foundations for a secure future free from the threats of internal strife and an entrenched insurgency. Accordingly, Maj. Hodson assisted in developing the rule of law that will ultimately protect Afghan people, and foster credible governance. Criminal justice is one area that Major Hodson focused on and, to date, he is more than optimistic about Afghanistan's future. The following example illustrates his reasons for optimism.



"In 2011, an Afghan soldier murdered a United States Marine. The facts, many captured on surveillance video, are that an Afghan soldier "borrowed" an assault rifle from a sleeping comrade, walked over to an American observation post and killed a Marine. The Afghan was, surprisingly, captured, and found guilty of murder after a Court Martial. Although Afghanistan has the death penalty, the soldier was sentenced to twenty years, and would have served his sentence in a very harsh prison environment.

The soldier appealed seeking a lighter sentence, and the prosecution cross-appealed for a more severe sentence. After the appeal was heard by a three panel court, the soldier's original sentence was set aside and a death sentence was substituted. The cost of one bullet was part of the sentence. The entire appeal took approximately 1.5 hours.

"Regardless of one's views on death sentences, and disregarding the speed of the appeal, all the foundations of an adversarial process were present" said Major Hodson. "Both the defence and the prosecution presented creative arguments and were able to respond to the many inquiries from The Court. Similarly, the panel members focused on the facts that were found at trial and applied same to the law within the parameters of counsels' arguments" Major Hodson observed.

Without a doubt, all involved in the appeal were grounded upon and guided by the basic principles of fundamental justice. Although those familiar with the Canadian courts or appeal process may find faults, the proceeding was an inspiring opportunity to observe Afghan justice as it evolved. Relying upon Rumi, an Afghan poet famous throughout the world, Major Hodson proudly asserted that "a seed needs to be planted and watered before it will grow into a strong tree". The future of Afghanistan is promising.



David Hodson's office is in Oshawa, Ontario.