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Preface

Corruption in the government institutions is a major challenge in Afghanistan. One of these institutions is the judicial sector. In this sector, corruption exists in large scales which have led to public mistrust in these sectors. The spokesperson of the EU in Afghanistan said that in most of the areas in Afghanistan, people suffer from injustices and due to corruption in judicial organs, they (people) file their cases in the courts of the armed oppositions of the government. He also added that in some regions in Afghanistan, people see the judicial sector as the centers of corruption and instead they go to government armed opposition courts for the settlement of their legal issues.

However, the Afghan Supreme Court rejected the EU spokesperson's remarks and termed it unjust. The Supreme Court has said that a large scale of reforms were brought in the Afghan judicial system and people then believed in the judicial sectors more than before. What is the level of corruption in the judicial sectors of Afghanistan? Why people are obliged to take their issues to the armed opposition for settlement? And in this regard what measures should be undertaken? These are the questions which will be answered in the first part of the Weekly Analysis of the Center for Strategic and Regional Studies (CSRS).

In the second part of the analysis, you would read about the unclear stance of Donald Trump about increasing the number of US troops in Afghanistan. Recently, the Afghan Minister of Foreign Affairs, the Commander of international troops in Afghanistan and some US senators have demanded from the new US administration to increase US troops in Afghanistan to fight against the Taliban and ISIL, but, in this regard, Trump is yet to decide.

Corruption in judiciary; impacts and factors behind it



Last week, the special representative of the European Union (EU) for Afghanistan Michael Mellbin said that the Afghan judicial organs were the most corrupt administrations. The reform program of the National Unity Government (NUG) is in a stalemate and corruption rate is increasing day by day. In the meanwhile, Mellbin has also said that in remote areas, due to corruption in the judicial system, people take their issues to the courts of armed oppositions of the government.

On the other hand, the Afghan Supreme Court has termed Mellbin's speech as unauthentic and has said that the judicial sectors are vastly reformed, and now people's trust in judiciary has increased more than ever.

Are the judicial bodies corrupt? If yes, then what are the factors behind it? Moreover, what are the impacts of corruption in these sectors? These are the questions that are analyzed here.

Corruption at Judiciary

It is not the first time the corruption in judiciary is pointed out, before this, Integrity Watch of Afghanistan (IWA) and some other institutions have published surveys and researches in this regard, and whose results show that in judicial sectors there is more corruption than any other sectors.

According to the last five surveys of the IWA, courts were the most corrupt institutions in the country. If one adds corruption in the Afghan Ministry of Justice to the corruption in courts, then the judicial organs will form half of the corrupt administration in the country. (For further info see Chart-1)

Chart-1: administrations involved in corruption

Year	The first corrupt administration	The second corrupt administration	The third corrupt administration	The fourth corrupt administration
2007	Courts (53%)	Ministry of Interior (43%)	Municipality (39%)	Ministry of Finance (24%)
2010	Ministry of Interior (43%)	Ministry of Justice (32%)	Directorate of National Security (30%)	Municipality (20%)
2012	Courts (29%)	Ministry of Interior (26%)	Ministry of Justice (23%)	Directorate of National Security (17%)
2014	Courts (34%)	Ministry of Interior (23%)	Ministry of Education (20%)	Ministry of Justice (17%)
2016	Courts (10%)	Judges and Prosecutors (8%)	Ministry of Education (6%)	Others

Source: Surveys of IWA (2007, 2010, 2012, 2014, and 2016)

Besides that, the International Institute of Gallup and Pajhwok News Agency have also conducted surveys on corruption in courts and judicial organs. Based on the Gallup's survey in 2013, due to the corruption in judicial organs, 75% of the people did not have confidence in judiciary. According to

the 2016 survey by Pajhwok, corruption in courts and judicial system is more than any other administration.

Factors behind corruption in judiciary

The followings are the main reasons behind corruption in the Afghan judicial system

- **Judicial System:** according to various surveys, Afghanistan's judicial system is the most corrupt administration. That is why the leaders of the NUG had vowed to bring reforms in these organs, but these reforms are yet to be brought. Due to corruption in these organs and slow and small-scale reforms in this sector has also resulted in corruption in judicial administrations.
- **The incomplete role of the Parliament:** the judicial organs also need such laws that enable these organs to punish those who are involved in corruption. However, when the Parliament does not pass these laws, the judicial organs will fail to counter corruption. For instance, it is the third year since the fourth annex of the Afghan civil law (civil code) is sent to the Parliament, but it is yet to be approved by the parliament. In this annex the types of corruption-related crimes and their punishment are stated. In addition, another law, which is regarding land grabbing, is also pending in the Parliament to be approved.
- **The confrontation between Judicial and Executive organs:** it is also another factor behind the corruption in the judicial organs. Since 2001, the executive branch has constantly made efforts to convert the decisions of the judiciary to its own benefit or to influence the process of detection and investigation.

- **The intervention of the powerful people in the judicial organs:** in a report released by the judiciary branch of the Afghan government in 1389 “A picture of administration reform and the fight against corruption in the judiciary”, the judiciary branch itself accepts the existence of corruption in this organ and terms external intervention as one of the factors behind corruption in judicial organs. These interventions are on behalf of people including government officials, Parliament members, and other powerful people.
- **Lack of overseeing and monitoring in the judicial organs:** lack of monitoring and oversee in the judiciary branch is also one of the reasons behind corruption in these organs. Therefore, the judicial sector is required to be monitored and controlled.
- **Internal factors:** in addition to other factors there are some elements inside the judicial organs as well, which have paved the way for corruption. For instance, low salaries (except for the judges), weak administrative control, lack of coordination between judicial and security organs and some other factors.

The impacts of corruption in judicial organs

- **Human rights;** everyone has the right to defend himself in an independent and impartial judicial system, but corruption in judicial sector would endanger this very basic human right. Therefore, corruption in judicial system can create major obstacles in the way of human rights. The more judicial organs are corrupt, the more will human rights be violated.
- **Lack of public confidence in governmental administrations:** widespread corruption in judiciary branch has reduced public confidence in these organs and thus persuaded people to take their issue to the powerful peoples or the courts of armed oppositions of

the government. However, such behavior is less apparent in urban areas, but in remote areas most of the people refer to the courts of the armed oppositions of the government.

- **Economy and investment;** another impact of the corruption in judicial organs is on economy and investment, because most of the time investors need to refer to the judicial organs and when the influence of powerful people is explicitly apparent in these organs, investors feel that their investments are not safe. In addition, corruption in the judicial organs increases the chances of imbalanced distribution of assets in the society, it affects the tax (tax, customs and...) collection process, and finally, it affects the distribution of the equipment among the provinces.

Increase in US troops level in Afghanistan and Trump's unclear AfPak Policy



In the first week of 1396 (Afghan Solar Year), the Afghan Minister of Foreign Affairs traveled to the US to participate in the Atlantic Council Conference. In his speech in the conference, he called on the US government to send more troops to Afghanistan to fight ISIL and the Taliban.

The demand for more troops on behalf of Afghanistan comes at a time that, before this, the commander of NATO forces in Afghanistan General John Nicolson had also said to the US congress that in order to break through the stalemate in Afghanistan, more troops were needed to be deployed in this country. But the Trump administration is yet to respond to Nicolson's call.

Here you would read about the US military strategy in Afghanistan, the rise and fall in the number of US troops level and the impacts of the US forces on the situation in the country.

The US's Military strategy in Afghanistan

More than one and a half decade ago (on 7 Oct 2001), the US forces launched large scale operations to overthrow the Taliban regime and destroy Al-Qaeda bases in Afghanistan, and the war that followed is still going on. During this time, dozen thousands of Afghans have been victims of this war and it still continues to claim Afghan lives.

At first, the US succeeded to defeat the Taliban and replace the regime with the new government, but later-on, when the Taliban restarted their fight in various regions of the country, the US increased its troop level in Afghanistan. The increased number of the US troops and intensified war resulted in increased US troops' casualties. In 2005, the casualties of the US troops was 129, 193 in 2006, 228 in 2007, 296 in 2008 and 516 in 2009.

In 2008, when Obama seized power in the US, besides announcing the new surge of troops in Afghanistan, he announced the end of 2011 for the withdrawal of the US forces from Afghanistan. With the beginning of the US withdrawal from Afghanistan, the security transition to the Afghan security forces began as well, and completed in June 2013.

After the formation of the National Unity Government in Afghanistan in 2014, it signed bilateral security agreements with the US and NATO. Based on these agreements, after 2014, 9800 US troops and 2000 NATO troops remain in Afghanistan and in 2016, this number decrease by 50%. However, until the end of Obama's term, the abovementioned decision repeatedly changed. The decision would constantly change between decreasing and increasing the troops and finally in July 2016, Obama announced that 8400 would remain in Afghanistan by the end of 2016.¹

¹ The research and analytic report of CSRS, "Afghanistan in the past one and a half decade" page: 306- 307.

The demand to increase US troops

2016 was a tough year for Afghanistan in terms of security and the war between the Afghan government, and the armed oppositions were warmer than the previous years. In this year, the Taliban controlled areas, civilian casualties and the war in urban areas increased. In addition, in this year, some districts and even Kunduz city fell at the hand of the Taliban for the second time.

The issue of deploying more US troops in Afghanistan was first raised by NATO commander in Afghanistan and then some senators in the US Congress, but, in this regard, the US President is yet to determine.

In his remarks to the US Congress, General Nicolson said that the Russian and Iranian support from the Taliban had challenged the peace process in Afghanistan and if one evaluated the Russian and Iranian activities in Afghanistan, one would find out that all of them had aimed at weakening the US and NATO in Afghanistan.²

Nicolson also added that, out of Afghanistan, the enemy had both strong support and permanent sanctuaries which challenged the US success in Afghanistan. Nicolson was apparently pointing out Pakistan and indirectly suggested the new US administration, to reconsider their policy towards Pakistan.

However, in response to the request for more troops, Wolesi Jirga (the lower house of the Afghan Parliament) has said that instead of increasing

² Deutsche welle; <http://www.dw.com/fa-ir/%D9%86%DA%AF%D8%B1%D8%A7%D9%86%DB%8C-%DA%98%D9%86%D8%B1%D8%A7%D9%84-%D8%A2%D9%85%D8%B1%DB%8C%DA%A9%D8%A7%DB%8C%DB%8C-%D8%A7%D8%B2-%D9%86%D9%82%D8%B4-%D9%85%D8%AF%D8%B1%D8%A8-%D8%B1%D9%88%D8%B3%DB%8C%D9%87-%D9%88-%D8%A7%DB%8C%D8%B1%D8%A7%D9%86-%D8%AF%D8%B1-%D8%A7%D9%81%D8%BA%D8%A7%D9%86%D8%B3%D8%AA%D8%A7%D9%86/a-37495548>

foreign forces, the strengthening and equipping Afghan forces is the best way to fight the anti-government groups in Afghanistan.³

Is increasing US troops a solution for the Afghan war?

Tens of thousands of US troops were present in Afghanistan in the past years, and they could not end the war in the country, and the war continued to claim Afghan lives, now how can dispatching few thousand US troops can terminate war in Afghanistan?

In 2007, the Commander of foreign forces in Afghanistan General Dan McCain demanded an additional 26000 troops to be deployed in Afghanistan. He said the increasing foreign forces could maintain the US position in Afghanistan and that they (the US) should not lose its position because of ignorance and lack of political will.

In 2009, the then Commander of foreign troops in Afghanistan General Stanley McChrystal also warned that the hesitation in deploying more troops in Afghanistan could increase the chances of unlikelihood of the Taliban defeat. After General's these remarks, Obama increased the US troops in Afghanistan from 30000 to 100000 soldiers which not only decrease war in Afghanistan but also elongated it.

After the new US President had sworn in the US, once again, the Commander of foreign forces in Afghanistan demanded deployment of more foreign troops in Afghanistan, "the current number of our troops in Afghanistan is only enough to counter the activities of the armed oppositions of the Afghan government, but in order to train the Afghan military forces, more foreign troops are needed," he said. Apparently, this US General wants to succeed in the Afghan war through increasing troops,

³ Radio Azadi: <https://da.azadiradio.com/a/28386368.html>

but he might not realize that an increased foreign troop's presence in Afghanistan in the past had resulted in a further intensification of war.

Instead of increasing troops in Afghanistan, the new US administration must primarily ponder about the challenges that have led to the US failure and amplification of war in Afghanistan. The US president must also support the Afghan Peace Process and must seek to end the war, that they had started in Afghanistan, through any way possible because peace in Afghanistan is not only in the best interests of Afghanistan but also that of the US's and the world's.

The end

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Note: Please let us know your feedback and suggestions for the improvement of Weekly analysis.

