

ARE COMMUNITY SANCTIONS ENACTED TO PREVENT MINOR CRIMES IN AFGHANISTAN?

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Among the Arab countries, Jordan has a comparatively better justice and legal system. In 2017, the country endorsed community sanctions in their justice system which was wrapped up in 2018. As a result of the new law, 333 people (307 men and 26 women) who committed minor offenses during the last 2 years were sentenced to perform community services instead of imprisonment. Basam Talhoni, Minister of Justice of Jordan has expressed to Aljazeera Network that their experience of the law was successful. This is because, through the law, offenders are not only allowed to stay with their families and endure their penalty, but continue providing necessities for their families, which, otherwise, would have been a financial burden for the community and the government. On the other hand, the government has efficiently utilized their free services in public sector. Social activists and psychology experts also supports community sanctions and consider them particularly effective in penalizing elders, women, youngsters and sick people.

It is obvious that offenders should be punished and their punishment should eliminate their desire to commit crime the future. Punishment for major crimes

such as murders, robbery, and others should be enforced according to laws of governments. However, imprisonment for minor offenses, especially imprisoning those who have no previous criminal records, can turn common offenders into notorious criminals, since the prisons are considered learning places for various crimes.

Jordan is not the only country which implements community sanctions, but many countries have experiences in this regard.

Community Sanctions as an Alternative for Imprisonment

Countries have different penalties for various minor and major crimes. According to article 28 of the criminal law of Afghanistan, monetary penalty for major offenses is 30,000 Afghani. In addition, penalty for minor offenses is medium monetary penalty or an equivalent imprisonment, as stated in article 29 of the criminal law.

In 2013, lawmakers of Iran realized that imprisoning minor criminals has more harms than benefits. Therefore, they sanctioned alternative penalties for minor offenses. The mitigation was not comprehensive, since those who had criminal record of one or more offenses of 6 months of imprisonment within the last 5 years will not benefit from the new alternative laws.

According to article 2 of the criminal law of Iran, free community service is divided into six categories:

1. Learning programs such as literacy, sports, skills, and others
2. Health services such as nursing elders, children, handicaps, cleaning and others.
3. Technical services such as working at workshops, factories and others.

4. Supportive services such as cleaning public places, gardens, buildings and equipment of parks.
5. Services in construction, mining, road construction and others.
6. Agricultural services such as gardening, farming, husbandry and others.

These are alternatives for penalties. Their duration for various crimes differs and is specified in courts.

In this regard, Brazil has chosen another intriguing alternative which has improved lives and wellness of prisoners. In Brazil, inmates are allowed to spend their time on reading books, learning foreign languages, charging batteries and generating electricity, through which, they can get closer to their freedom.

Book reading has certain rules and regulations in prisons. Inmates are given 4 weeks to read a book and write its summary at the end. In case of success, 48 days of their prison time is reduced from their total duration of imprisonment. The law was sanctioned after the number of inmates in 1995 were 148 thousand and raised to 494,237 in 2010.

According to article 47 of the new law of Germany, imprisonment of less than 6 months is replaced with monetary penalty. That too requires certain eligibilities. Those who refuse to pay the specified fine, they are sentenced to 24-hour community service.

In addition, Netherlands also has an alternative for less than 6-month imprisonment. Instead of monetary penalty, offenders are sentenced to community services.

There are many other countries which have chosen alternatives for minor crimes. Such alternative also includes fine of $\frac{1}{8}$ or $\frac{1}{4}$ of offenders' income. Also,

considering the type of crime committed, courts deprive offenders of some social rights such as participation in elections, inability to be hired in a governmental position and ban from travelling abroad.

Although countries have chosen various alternatives for imprisonment, but if only properly chosen and implemented, they can play role in crime reduction. Otherwise, there will be no effect on crime rate. Successful reforms can greatly affect a country since expenditures fall, minor offenders remain distant from notorious criminals and quality of community services are improved. However, countries where corruption, injustice, chaos and social disorder is common, such reforms may not be effective.

Is Enacting Alternative for Imprisonment Possible in Afghanistan?

Crime literally means sin, mistake and misdemeanor. It is a term used by lawmakers to denote an action which is penalized by the law security measures are undertaken for its prevention.

According to article 27 of the criminal law of Afghanistan, crime is “commission of refusal of an action that is considered as crime in the law, its elements are explicit, penalty is specified for its commitment and preventive security measures are taken”.

In addition, article 57 of the criminal law of Afghanistan defines “criminal” as “A criminal is person who has committed an action of crime individually, or in group”

According to Islamic criminal law, crime is defined as any behavior of performing and leaving an action that is penalized by the law. Jurists state that violation of laws of any country by external actions is considered crime when permissibility of action is not disclosed and is justified as punishable.

According to philosophers, crime is an anti-social action which is forbidden by people of community. In order to prevent its commission, government is given the right to develop laws and punish those who commit. Overall, crime can be considered as a social phenomenon and various factors play a role in its occurrence. Some key factors that cause crimes in our country include war, insecurity, poverty, economic crisis, illiteracy, and deprivation from education.

The people of Afghanistan are facing numerous economic, social, security and political problems. These factors contribute to desires of committing crimes in the minds of youngsters and the new generation. Surely, prisons of Afghanistan are not good places to nurture offenders. Instead, it would have been preferred to find alternatives for minor crimes. However, considering current conditions and capacity of law implementing bodies, it seems difficult to undertake such alternatives since such an alternative can be misused in favor of the powerful and there is a risk of poor management of implementation of alternatives.

The current criminal law has been reformed and allows monetary penalties instead of imprisonment, which to some extent, seem reasonable. However, until peace comes and security is maintained, it is difficult whether to include community sanction in the justice system or otherwise.

Preserving peace, security and social justice are key matters, under which, the government of Afghanistan can enact community sanctions and enable people to start believing in the justice system of the country.

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THE SURGE IN CRIMES IN AFGHANISTAN AND ITS CAUSES



As the crime rate in the capital and some other provinces raised since a month, people are experiencing great terror. On the other hand, Masood Andrabi, Acting Minister of Interiors during his visit from zone 5 on 10th October, 2020, expressed that criminals should be taken down even in daylight and has ordered to shoot criminals upon site. Here, CSRS analyzes the causes of rise in criminal incidents in the capital and provinces.

Factors behind the Criminal Incidents in Afghanistan

Since the US attack in 2001, Afghans started to work with national and international organizations. As a result, economic activities increased and working opportunities were provided for Afghans. However, when such organization ceased their operations and economic activities fell, many Afghans faced unemployment and financial difficulties. Some people who were unable to efficiently manage their balance of savings and expenditures faced financial difficulties after losing their source of income. Hence, they started to obtain income from illegal means. In addition, after the attack of foreign forces, some Afghans got highly paid positions. Hence, they started spending on drugs such as wine, K-tablet, cocaine and weed which were not previously common in the

country. According to statistics, more than 3 million of the population are drug addicts.

As the economy of Afghanistan highly depends on foreign aids and have remarkably reduced compared to the past, crime rates have also increased as its result. This is because people, in order carry on with their daily lives, are forced to commit crimes such as theft, abduction, murders and others.

Since year 2001, Criminal incidents have remarkably raised in Afghanistan. Abduction of foreign nationals between 2005 and 2008 increased tremendously, while 2014 and 2018 are years when crimes such as robberies, abductions, and murders were at its peak and are still in progress.

Among the various causes of criminal incidents, economic, political and security problems, inability to implement the laws and extensive corruption can be considered as the key roots of crimes in Afghanistan.

Lately, Kabul, which was previously considered secure compared to other provinces, has rising cases of theft of valuable possessions and mobile phones, and compulsions for cash. Although, people live in great fear, but security forces have been unable to bring any remarkable changes in the security condition of Kabul city. The citizens of Kabul consequently commenced a campaign on social media hash tagging (Kabul is not safe!). As a result, security officials were forced to assure the citizens of their endeavors for improvement of the security condition of Kabul.

According to the police headquarter of Kabul, 146 criminal incident have been reported within the last 20 days. In this regard, 133 individuals who have committed robberies, homicides, abductions, drug dealings, spoliations, and harassments have been arrested.

Masood Andrabi, acting minister of interiors during his visit of security posts at Kabul has expressed security forces to directly hand over criminals to the ministry or the police headquarter, so that they can be utilized to find key members of gangs.

How to Reduce Criminal Incidents?

According to the International Monetary Fund (IMF), Afghanistan was severely affected by the Covid-19 pandemic and had -5 economic growth. On the other hand, according to endorsements of the Brussels summit in 2014, international aids in military and non-military sectors will continue until the end of the year. It is expected that the summit will be conducted in November, 2020 in order to provide additional funds to Afghanistan.

As the Afghan government is under serious security threats by the Taliban, and on the other hand, it is striving to recover from poor economic crisis and struggling to attract foreign aids, increase in criminal incidents is further contributing to problems of the government. It is presumed that government officials are involved in the surge of crimes. Therefore, distrust between people and the government has reached to its peak and the public accuses security officials of having links with robbers and criminals.

On 14th July, 2020, due to requests of people, the government announced commencement of a project called “covenant of security” which was planned to improve security condition with cooperation of the public. However, it seems to have been just a statement and have not had any effective result. Lately, the chairman of the parliament also called the project as failure and requested additional positive changes.

If the Afghan government is truly willing to reduce crime rate, it should commence projects to improve the economic condition of the country. This is because the unemployment is correlated to the rise in crime rate. The government can present unemployment as the main subject to Brussels summit, so that foreign aids are attained in this regard.

In addition, the Afghan government can reduce criminal incidents by undertaking preventive measures against drug dealers. If not prevented, citizens of Kabul will face further obstacles in freely walking around the city. This is because the number of drug addicts rises day-to-day and the government has not undertaken any remarkable action against it. In order to obtain drugs, addicts use force to obtain valuable possessions from people, which as a result, they usually get injured or killed.

In order to prevent organized groups who operates to robs people and attains their valuable belongings by force, the government is required to start registration process of phone sim cards. This is because robbers can easily sell their stolen materials in the market.

Security establishments will be unable to preserve security until they attain support of the public. Distrust of the people on the security services and lack of their support has provided opportunities for individuals and groups to continue their criminal operations. The public is concerned that criminals are released by security establishments after being arrested for committing crimes. In order to gain trust of the people, the government should bring remarkable positive changes in security establishments and their staff. Transferring officials from one location to another is not only ineffective, but gives courage to criminals to shift their operations to other locations.

In addition, there some glitches in the penal code including lack of coordination between the police and prosecution establishments. When a criminal is arrested by the police, he/she is either released without penalty, or imprisoned for a short period of time. Such poor implementation of the law gives courage to criminals to increase their crimes. Those criminals that do not reach prosecutions has a whole different story.

Likewise, if the government does not step up to reduce criminal incidents, distrust of people will cause reduction in investments and enable Pakistan, which has recently facilitated investment opportunities for Afghans by extending Visa duration, to attract investments from Afghanistan. This can further deteriorate economic condition of the country.

In order to express accomplishments in crimes reduction, the government should severely punish key individuals behind the criminal activities. This will eliminate fear and enable citizens of Kabul and provinces to peacefully live their normal lives.



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