

In the Name of God, the Most Merciful, the Most Kind



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Judiciary should Serve Justice

Emphasizing on the better role of judiciary in the country, First Deputy Chief Executive Officer Mohammad Khan, in a gathering on judicial reforms including UNDP, UNAMA and Justice Ministry officials, said on Monday, August 10, that judicial reforms and rule of law could help Afghanistan get rid of insecurity and misfortunes.

Mohammad Khan told the gathering that judicial reforms could help overcome many problems the society faces. He said a strong political will and assistance from visionary organs could help bring reforms to the system.

Reforms are necessary because it is vital that the country should have effective judiciary; otherwise, thinking of justice in the country would remain only a dream.

It is important to understand that every modern state stands on four basic pillars also termed as organs of the state. These include Legislature, Executive, Judiciary and Media. All the four organs of the state play their role in the development of a state and it is their appropriate interaction that can make a state function successfully. Every state is formed in order to guarantee the rights of the people who are their citizens. Modern welfare states even move one step ahead by announcing the role of the state to be the welfare of all its members. So they believe that state in itself is not an end rather it is a mean to an end and that end is the welfare of the people.

In order for a state to function in such a way so as to guarantee the welfare of the most of its citizens there should be 'Separation of Powers' among the organs of the state. The separation of powers suggests that the different organs of the state have the capacity to function on their own, without any compelling influence from other organs. This is to guarantee accountability and fair play in the matters of the government.

In case of judiciary Separation of Powers become inevitable because there are fears that if judiciary is not separated from the executive or legislature, there is every possibility that the law is utilized for safeguarding the interests of the ruling elite. Particular emphasis, therefore, should be on a separate judiciary and it has to be made sure that the independence of the judiciary has to be real and not apparent merely. From 'real' it is meant that judiciary be separated in its function practically not just theoretically.

It has been one of the most dominating demands of the justice that the makers of the law themselves should also be put to trial and even punished for their violation of the law. As in most of the human societies the ruling elite have been so easily capable of using the law for their benefit that there is a belief in politics that 'justice is the will of the rich'. Once the rich and the powerful in society become strong enough so as to undermine the law and order system, the doom of the system is ascertained from that particular point. Therefore, it is vital that they should also be tried and if the law proves them guilty they should be punished as per the law - this will set a remarkable example in the state and will ensure justice to all of its people.

The system running in our country Afghanistan is one of the presidential systems in the world. Keeping in view the prevalent differences in the country it is advisable that there should be a strong central government. And the president should enjoy powers, so that it should be able to take important decisions speedily and on time. But all these can never be achieved on the basis of violation of separation of power. The idea of separation of power as explained earlier is very much advisable for a system to work with accountability and fair play and especially when the system is a presidential system. The judiciary, executive and legislature are not separated as per the idea. The judiciary has not been able to prove its separate identity. Though there have been many allegations on the executive members, they are yet to be brought to courts and tried openly.

The public courts, in similar fashion, are not able to provide justice to the people as per the demands of true justice. The people do not get timely justice and have to wait for a long time before the culprits are tried and punished. Moreover, there are instances when the culprits are able to avoid trials and punishment through corrupt means. The poor people, in this regard, suffer the most. As they are not able to follow pay for the corrupt means and they do not have influence like the rich people, they never get the justice to favor them. Even if they are on the right side, they are proved to be wrong and thus they get disappointed from the system.

It is important that the judiciary must ensure proper trial and punishment and make sure that justice is served to all the people of Afghanistan alike and the poor and minorities are not violated.



Soaring Violence Downed Taliban's Standing

By Asmatyari

Seeing at the magnitude of aggression wreaked by violence-mongers, we find barbarism an overriding element of our society. The strength anti-state elements have acquired marks the state of unwillingness to be curtailed. The turn of every seasonal offensive the intensity of violence inclines rendering the foreign diplomats, public officials and civilians prime target of attacks. The growing attacks on foreign and civilians indicates the insurgents are underlining their pretentious presence. The individuals driven by evil motives, fear of losing what they owned, lust of having numerous monetary gains put them in the black race of domination, leading to formation of a human society we witness at the moment, characterized by rule of mob, violence, aggression, innumerable bloodshed and ruthless killings of fellowmen. Unluckily our society at present is governed by some of identical dilemmas.

The former unprecedented attacks in Afghan capital depict, Taliban and other militants have waged unofficial or unauthorized war against innocent civilian to chasing their political aims. It's no surprise after decade long bloody conflict at the behest of infrastructural and human losses US has shifted to rebranded Taliban and armed insurgent not terrorist group. Unobjectionably, the wave attacks and intimidation of Afghan civilian seem not to be convincing even to brand them local terrorist if not international terrorists. This shift has certainly come into being after US dismantled Al-Qaida and Taliban nexus and spectacular assassination of Osama Bin Laden in Pakistan. Following it Afghan Taliban does not fall in the State Department's list of Foreign Terrorist Organizations however Pakistani Taliban still lie. The comeback of Taliban in political arena seems to be part of set script is likely hatched in the form ongoing demands for peace talks from across the world. Nonetheless, the former escalating wave of Taliban's increasing bloodlettings might complicate the drive.

The ongoing week appears to be the deadliest with continues attacks that left over 80 people dead and around 500 wounded. Majority of the victims were civilians - which unwaveringly comes in war crimes that can substantially hold Taliban liable of being tried in the court of justice. The dramatic rise in civilian casualties is matter of great concern for humanitarian organizations and ordinary Afghans, alike. Conversely, it too underscores government's unpreparedness in curbing the militants and terrorists capacity unleashing great deal of attacks. The president subsequent to returning from Germany directed the officials concerned to thoroughly reevaluate security situation and work out a comprehensive plan to bolster law and order. Both a coordinated surveillance security system and apt counter terrorism measure may help war torn land get rid of growing attacks. Stretching fingers out at others might not help us get out of the ongoing dilemma of terrorism.

Finding the weaknesses of in ground opponent, both in scene off scene enemies try to exploit the state of affairs in their favor. Tracing and dismantling such terror nexus is the sole responsibility the incumbent government should account to. Undoubtedly, Taliban uses violence to make a break-

through entry in Afghan politics - Afghan government has reach out to any such plot. Unlike many analysts I turn down the perception; Taliban drove the former wave of violence, seeking dictation from agencies of neighboring country. The fact might probably be - Taliban exercising violence is meant to diffuse the rumors of rifts amongst their ranks; bid to display physical might after news about, all at sudden demise of their de facto leader and let Kabul government know they are hitherto unaffected and stand united against government operation.

Nonetheless, the faulty perception Taliban want to create can not turn around the truth about the emergence of blatant division amongst their ranks. The crack within the leadership of Taliban occurred after Mullah Akhtar Mohammad Manour was appointed as the Emir of Taliban after Mullah Omar was announced dead. The disparity of opinion about who should head the movement is turned a burning issue. Reportedly, some militants have had verbal to armed clash owing to have contradictory opinion regarding the appointment of the group's new supreme leader with distinct causalities. Seeing this Mullah Mohammad Syed Tayyab Agha resigned from his position as Taliban group's head of the political office in Qatar office. His resignation came amid growing rift among the Taliban leaders regarding the appointment of Mullah Mohammad Omar's successor. A number of Taliban clerics are mediating to remove rifts between divided Taliban factions and are likely to announce their decision about Mullah Omar's successor soon. Nonetheless, the chaos within Taliban leadership has led to the postponement of peace talks between the militant group and Afghan government to end the over-a-decade long war in Afghanistan. The reconciliation talk is unlikely to resume given Taliban sticks to unleash violence.

On the other hand President Ghani's recent upcoming against Pakistan showed the marked resentment stating enough is enough. It was depicted earlier, during a press conference at the Presidential Palace in the battle-weary capital of Kabul, blasted over the neighboring country. According to him Afghanistan can no longer stand back and witness the killing of its citizens. He reiterated the former demands asking Pakistan to bring the Taliban back to table of negotiation; stop harboring the insurgents; take action against those who are launching attacks against Afghanistan.

The consecutive attacks let Taliban reach tot their desired objective is barefaced deception. The matter of fact is - the whole state of affair goes against the interest of Taliban - it earns them loosening foothold and down acceptability in Afghan society. Identically, a strong resentment is particularly witnessed amongst masses against the more terrorist than insurgent group. Following the former wave of attack on civilians, dozens of civil society activists took to the streets of Kabul in protest against the militant group of Taliban. Protesters were carrying banners with different slogans condemning the attacks. Protesters were carrying banners that read great degree of resentment against Taliban. Another banner was reading a slogan seeking prosecution for Taliban for carrying attacking civilians. Moreover, the president also hinted - Afghanistan will not carry out peace talks with those at war against the country.

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The Challenges of the Afghan Judicial System

By Abdul Ahad Bahrami

In the current institutional development efforts going on in Afghanistan, reforming the Afghan judicial system is considered as a key component of the state-building process in the country. However, Afghanistan's judicial system is one of the inefficient judiciaries in the world, suffering from widespread corruption and major structural constraints. In a gathering on judicial reforms held in Kabul, First Deputy Chief Executive Officer Mohammad Khan said judicial reforms and rule of law could help Afghanistan improve security and overcome the current challenges in the country. The gathering, attended by representatives from UNDP, UNAMA and the Justice Ministry, agreed on series of proposed reforms to a number of key laws in the country. The United Nations' Rule of Law Unit head said that despite millions of dollars spent on judicial reforms in Afghanistan, there has not been sufficient progress in reforming the judicial sector.

Despite major efforts to bring reforms to Afghanistan's judicial system, the justice system has not been able to overcome key structural challenges. In absence of an efficient judicial system, a large part of the Afghan population goes to local religious and customary justice authorities or in many cases to the Taliban for resolving their disputes. This has been a major challenge for the government of Afghanistan and the international community struggling to reform the judicial system as part of the long-term state-building process. Many believe it further fuels the insurgency and result to more corruption. Despite the international community spending millions of dollars on reforming Afghanistan's justice system, there is no real hope for seeing substantial progress in salvaging Afghanistan's judicial system.

Structural problems

The most challenging task for reforming the Afghan judicial system is addressing the existing structural challenges. In 2002, the United Nations Office on Drugs and Crime launched a criminal justice reform program for the first time to improve the Afghan judiciary. In a proposal to improve the judicial system in Afghanistan, the United Nations Office on Drugs and Crime describes the deficiencies of the Afghan judicial system. "Despite significant improvements achieved so far, the Afghan justice system still suffers from serious systemic problems. Due to more than thirty years of conflict and civil war, the country's judicial system has been widely destroyed." The UN program was an immediate response to reform the Afghan judicial system. It helped addressing key insufficiencies such as lack of laws, skilled personnel and other key requirements.

To address key structural challenges of Afghanistan's justice system, there is need for a genuine political will to take concrete measures for reforming the judicial system. Reestablishing the rule of law, ending long-established culture of impunity in the country and creating a culture of professional justice are essential preconditions for peace and stability in Afghanistan. Given the recent Afghan history, traditions, culture and social norms, intensive reforms are required to reach these goals.

Major challenges of the Afghan judicial system are lack of high quality legal education, qualified staff, poor communication and coordination between Afghan state institutions and widespread corruption. These challenges create a disabling condition for a sound and viable justice system that could only be resolved by working on legal and judicial facilities and the people dealing with the facilities. However, to some extent, the situation has improved regarding structural issues such as establishing systems, developing laws and enhancing the professional capacity of the judicial system's personnel.

The conflict in Afghanistan has had negative impacts not only on physical justice system, but also on the culture of rule of law. This applies in particular but not exclusive can be seen in the Afghan provinces. In this regard, a long-term approach and persistent efforts are required to improve rule of law and order in the society in the areas concerned with the judicial system.

Large-scale crimes

Dealing with large scale corruption has been the most difficult task of the Afghan judiciary in the past fourteen years. Due to lack of a political will in the country, there have been many cases of large scale corruption that are remaining unresolved. The Karzai administration is much blamed for the current widespread corruption in the country.

In August 2011, former president Hamid Karzai issued a decree for reforming the country's judicial agencies. Based on the decree, a commission comprised of the anti-corruption oversight department, National Security Council, as well as Karzai's legal advisor was authorized to launch investigations on large scale corruption cases. A new law to deal with cases of ministers accused of corruption was also developed at the time. The initial steps taken by Hamid Karzai's government was initially promising a will in the Afghan government to fight large scale corruption in the government. However, the government at the time failed to take serious measures in dealing with the large-scale cases of corruption that even involved a number of ministers of the government. The other major challenge to Afghan judicial system is absence of women in the sector. Afghanistan cannot improve its justice system in absence of professional women lawyers and judges that could help the Afghan women access justice. There are claims that the Afghan judiciary is usually working in favor of men, which is a main obstacle discrediting the Afghan justice system. There have been achievements in training legal experts of Afghan women to be hired as employees of the Afghan judicial establishment. Whatever progresses are, they cannot meet Afghanistan's need in this regard. And there is no real evidence to say that the issue is taken serious by the authorities.

The Afghan government and its international partners have so far treated the crucial judicial reforms as a secondary priority in the country. It is considered marginal. This is while justice is essential for the stability of Afghanistan. In fact, lack of justice further undermines the Afghan government and prolongs the ongoing conflict in the country.

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