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Criminal Protection of Public Property in the Legal System of Afghanistan

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ABSTRACT

If we look at the criminal side of the protection of public property, we can say that there are laws and legal mechanisms in Afghanistan's criminal law (as a type of the legal system) which would be used to deter and punish offenders who commit crimes against public property. This kind of protection is one of the best and most important ways to protect public property. Nonetheless, despite the presence of these legal provisions, there are challenges in the enforcement of laws against public property offenses which include weak institutional capacity, corruption, and lack of public awareness on the legal implications of these offenses. Addressing these challenges is crucial to enhancing the legal framework's efficiency. The present study examines applicable legal concepts using a descriptive-analytical approach of research method and library data collection. The analysis also includes a comparative approach to showcase how other jurisdictions address similar issues and suggestions for best practices which could be considered in relation to Afghanistan. The results demonstrate that in Afghanistan's legal system, public property is defined as assets that are allocated for the common use and well-being of society. No criminal penalty is more effective than others for unlawful penetration of such property, including capital punishment, imprisonment, fine and damage, depending on the severity and nature of the crime. Criminal policy is the systematic approach that enables these criminal protections to be enforced, and against which the perpetrators can be held accountable. Some sort of stringent yet efficiently executed penal provision coupled with institutional mechanisms and public legal awareness campaigns, however, would be required to bring down the numbers of crimes against public property to further protect national wealth and resources. Moreover, the adoption of relevant international best practices and stronger legal oversight mechanisms could go a long way in enhancing the protection of public property in Afghanistan legal system.

INTRODUCTION

As we know, public property constitutes a nation's national wealth and is made available for public use, belonging not only to the present generation but also to future ones. The economic value and societal benefits of such assets necessitate their special protection and preservation. The significance of this matter is so profound that various preventive measures have been proposed to curb encroachments by individuals and entities (both legal and natural persons). These measures include the adoption of modern technologies, the strengthening of oversight institutions such as municipalities, and public awareness campaigns aimed at safeguarding public assets. However, one of the most effective and essential strategies especially in Afghanistan's current circumstances is the legal approach, particularly criminal protections, as a fundamental mechanism to address these issues at their root. To ensure the effective application of legal frameworks for the protection of public property, existing laws must be rigorously enforced. Moreover, in cases where legal gaps or deficiencies exist, legislative reforms drawing from the experiences of other countries must be undertaken.

LITERATURE REVIEW

Regarding prior research on this subject, various studies have addressed public property and its classifications. For

instance, Abdul Hossein Rasouli's work titled *Property Law* (2nd edition, Farhang Publications, 2017) focuses on Afghanistan's legal framework but does not specifically address criminal protections for public property. Other studies have explored criminal protection for specific types of public assets, but within the Iranian legal system. For example, Farzaneh Gholipour's master's thesis (*Criminal Protection of Air and Water*, Islamic Azad University, Tehran, 2013) discusses environmental protection within Iran's criminal law context. Mohammad Tariq Hilal, Barialy Bahir, Ahmad Naveed Noori (Hilal *et al.*, 2023).

The Concept of Public Property

Public property is what the government owns and has everything going to the public. Such resources include parks, buildings, other urban shape and natural services provided for the use of the community (Cole & Grossman, 2002). While private property is under individual control, public property is managed by public laws and regulations that ensure it works for the common good (Wyman, 2017). Public property can provide public services like libraries and schools or recreational green spaces or environmental conservation. Public goods are subject to democratic processes that govern their management and allocation and their role in promoting the common good (Underkuffler, 2005).

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This kind of property is critical for providing social order and equitable resource access; this property helps all constituents of society without regard to social or financial standing (Bromley, 1991). In the Afghanistan legal system Public property refers to assets that do not belong to any specific individual owner (Qasemzadeh, 2011). According to this definition, any property without a designated owner falls under the category of public or communal property. The term public signifies common ownership, general accessibility, and collective use, as opposed to private ownership (Amid, 2010). However, properties with unknown owners or lost items (luqṭah) that originally had a specific owner, even if their owner remains unidentified, are not considered public property. It is important to note that the definition provided above is not entirely comprehensive, as it merely states that public property lacks a private owner without explicitly addressing its function for public benefit and welfare. A more precise definition would be that public property consists of assets designated for the benefit and welfare of all members of society (Langroudi, 2007). These assets may be:

1. Directly accessible to the public, such as roads, public squares, bridges, and other public infrastructures.

2. Accessible under certain conditions, where usage is subject to specific regulations and eligibility criteria, such as public schools, state orphanages, and government universities. Several alternative definitions of public property have also been proposed:

“Public property refers to assets that belong to the public or remain unclaimed” (Katouzian, 1998). According to this definition, public property comprises assets collectively owned by the people, which neither individuals nor legal entities can appropriate as private property. Examples include roads, bridges, mosques, parks, pastures, and other shared resources. Public property is closely associated with the concept of common property, which refers to: “Assets collectively owned by a nation or the residents of a region, such as a city, and utilized for public purposes, including parks, public squares, endowments, streets, and highways” (Langroudi, 2007). Based on this definition, no individual may claim ownership over public streets, open-ended alleys, bridges, caravanserais, public reservoirs, historical schools, public squares, or wells used by the general public. The prohibition of private ownership over such assets stems from the fact that their intended function and purpose inherently conflict with private appropriation. Another comprehensive definition states: “Public property consists of assets owned by the state or public legal entities, designated for public welfare. These assets may be directly available for public use such as roads, bridges, museums, squares, and parks or may be subject to specific usage criteria, such as public universities, government schools, and military buildings, which are accessible only to individuals meeting certain conditions” (Rasouli, 2017). Afghanistan Civil Law provides a legal definition of public property: “Public property refers to assets that do not belong to individuals and are designated

for the public interest and welfare.” Additionally, under the Civil Code of Afghanistan (CMA), public property may be either movable or immovable, provided that it is designated for public benefit and welfare. Based on the provided definitions, this study’s author proposes the following: “Public property consists of assets collectively owned by society, managed by public legal entities, and allocated for the common good and public welfare.” Also property is categorized into two types: perfect property and imperfect (imperfect) property (Hilal, 2023).

Criminal Protection of Public Property in Afghanistan’s Criminal Law

Efforts to control and safeguard national wealth, including public property, stem from its foundational role in society. If we aim to fulfill our duty toward future generations, our nation, and civilization as a whole and if we wish to pass down the same resources and opportunities that our predecessors entrusted to us we must begin by preserving and protecting the fundamental infrastructure of society, namely public assets and resources. The preservation of these essential resources has always been a commendable act throughout history. Since public property belongs to society at large and constitutes the backbone of a thriving community, any encroachment upon it poses a serious threat to human rights. These public assets, which include roads, parks, green spaces, rivers, canals, groundwater, air, and historical-cultural heritage, are entrusted to governments either by divine decree (natural resources) or by the people (man-made assets) for public use and welfare. The primary responsibility of the state is to act as the guardian of these resources on behalf of the entire population. The Role of Criminalization in Public Property Protection given the critical importance of protecting public assets, the state has the authority to criminalize offenses related to public property. While criminalization inherently restricts individual freedoms, it is justified when it serves the greater good of society especially in cases where public property constitutes a fundamental pillar of national welfare. By adhering to the principle of legality in crime and punishment, the state can legitimately impose criminal sanctions to deter offenses against public assets. Today, most legal systems worldwide recognize the protection of public property both through criminal and non-criminal measures as a core legal and social value, necessitating effective policies and enforcement mechanisms. One of the most significant measures in this regard is criminal protection, which serves as a deterrent against violations and ensures accountability. This section specifically examines the criminal protections afforded to public property under Afghanistan’s criminal law. It explores the criminal policy adopted by the Afghan legislature in combatting offenses against public assets and evaluates the legal mechanisms in place to punish offenders and prevent future violations. The Nature of Punishment and Its Role in Crime Prevention Punishments are designed with multiple objectives: they serve to penalize offenders, ostracize

criminals from society, rehabilitate wrongdoers, and alert the public to the consequences of criminal acts. These functions of punishment vary in severity and intensity across different societies, but a common underlying principle exists across all human civilizations ensuring personal and social security as a fundamental human need (Gholipour, 2013). This innate desire for safety has led societies to adopt various deterrence mechanisms, ranging from fear-based punishments to rehabilitative approaches, in an effort to neutralize criminal behavior and reform offenders. Over centuries, legal systems have evolved significantly, striving to balance deterrence, punishment, and rehabilitation. Criminal Sanctions for Offenses against Public Property in Afghanistan Following this introduction, the discussion now turns to an in-depth analysis of the legal responses provided by Afghan law against individuals who commit crimes against public property. Specifically, this study examines:

1. What types of criminal sanctions are imposed for offenses against public assets under Afghan law?
2. What legal mechanisms has the legislature established to safeguard public property and penalize offenders?

By addressing these questions, the research aims to clarify the scope and effectiveness of Afghanistan's criminal protections for public property and assess the sufficiency of existing legal frameworks in combating such offenses.

Capital Punishment (Death Penalty)

In certain cases, offenses against public property not only result in damage to national assets but also threaten human life or involve terrorist acts aimed at undermining the government. Under such circumstances, the death penalty is imposed. According to Article 169 of Afghanistan's Penal Code (2017), capital punishment is defined as:

"The removal of a natural person's life in accordance with the law, following a verdict issued by a competent court and the approval of the President." As one of the severest forms of criminal punishment, the death penalty is considered a neutralizing response to grave offenses against public assets when such crimes also lead to loss of life or pose a direct threat to the state. Capital Punishment for Crimes against Public Property Afghanistan's Penal Code prescribes the death penalty for individuals who intentionally destroy public buildings, state-owned properties, or assets belonging to public institutions and, in the course of committing such acts, also commit intentional murder. Article 259 of the Penal Code provides:

(1) Any person who deliberately destroys or damages public or state-owned buildings, properties dedicated to governmental institutions, public organizations, or entities legally established for public benefit in such a way that renders them completely or partially unusable shall be sentenced to medium or long-term imprisonment.

(2) If the offense specified in paragraph (1) is committed in a state of emergency, with the intent to cause disorder, or to spread fear among the public, the

offender shall be sentenced to long-term imprisonment exceeding ten years.

(3) If the offense specified in paragraph (1) results in death, the offender shall be sentenced in accordance with the penalty for the crime committed (Penal Code of Afghanistan, 2017).

Paragraph (3) clearly establishes that if an individual commits a crime against public property and simultaneously commits murder, they shall be subject to capital punishment. Furthermore, Article 547(6) of the Penal Code reinforces this principle, stating: "If murder is committed in conjunction with another intentional felony or misdemeanor, the offender shall be sentenced to death." (Penal Code of Afghanistan, 2017, Article 547(6)). From a legal standpoint, this provision implies that if a person commits a crime against public property that qualifies as a felony while also committing intentional murder, they will face the death penalty. However, if the crime against public property is classified as a misdemeanor, the offender will be sentenced to first-degree life imprisonment instead of capital punishment. Destruction of Public Property for Terrorist Purposes Another instance where capital punishment applies is when public property is deliberately destroyed as part of a terrorist act aimed at challenging state authority or destabilizing the government. However, the death penalty is only imposed if such acts result in human fatalities. Article 269(2) of the Penal Code explicitly states:

(1) A person who, with the intent to commit a terrorist act, destroys or severely damages public infrastructure, disrupts its functionality, or renders it unusable, shall be sentenced to the maximum term of long-term imprisonment.

(2) If the offense specified in paragraph (1) leads to the death of a person or persons, the offender shall be sentenced to death. (Penal Code of Afghanistan, 2017).

A critical analysis of Article 269 suggests that the punishment for terrorist acts should be more severe in all instances. Article 269(1) provides for long-term imprisonment (ranging from 5 to 16 years) for terrorist-related destruction of public property. However, given the gravity of such crimes, it would be more appropriate for the legislator to impose first-degree life imprisonment or a harsher penalty in line with Article 269(2), which prescribes the death penalty if the act results in fatalities. Poisoning of Public Water Supplies a unique instance of capital punishment related to public property is the deliberate contamination of public water sources, which endangers both human life and national resources. Article 814(2) of the Penal Code states:

(1) Any person who intentionally contaminates public water sources, such as wells, reservoirs, or underground aquifers, by introducing toxic, microbial, or harmful substances, thereby endangering public health or property, shall be sentenced to second-degree life imprisonment.

(2) If the offense specified in paragraph (1) results in the death of an individual, the offender shall be sentenced to death (Penal Code of Afghanistan, 2017). This provision

emphasizes the severe consequences of tampering with public water supplies, recognizing the vital role of clean water in public health and safety. Illegal Drilling of Wells Leading to Fatalities Similarly, the unlawful drilling of wells or sewage systems without the proper authorization, which subsequently results in the death of a person, can also lead to capital punishment under Afghan law. Article 838(3) of the Penal Code provides:

(2) Any person who illegally drills a sewage well or engages in unauthorized activities that contaminate groundwater or drinking water sources shall be sentenced to short-term imprisonment.

(3) If the offense specified in paragraph (2) results in the death of a person, the offender shall, in addition to the penalty stipulated in this article, be sentenced to the punishment prescribed for the committed crime (Penal Code of Afghanistan, 2017).

Imprisonment

One of the most fundamental mechanisms for protecting society against criminals is imprisonment, which isolates offenders and prevents them from posing further threats. This type of punishment serves both positive and negative functions. On one hand, incarceration removes offenders from society, thereby reducing immediate risks and maintaining public order. On the other hand, it protects the offender from potential retaliation by victims or other individuals, thereby upholding the rights of the accused. Furthermore, imprisonment allows for the classification of inmates and their placement in rehabilitation programs, facilitating their reintegration into society as law-abiding citizens. Unlike some other forms of punishment, imprisonment is flexible and can be adjusted based on the severity of the crime and the characteristics of the offender. Additionally, if a judicial error occurs, compensation and remedial measures are more feasible compared to irreversible punishments such as the death penalty (Safari, 2008). Legal Provisions on Imprisonment for Crimes against Public Property Afghanistan's Penal Code prescribes various forms of imprisonment for crimes against public property, depending on the degree of harm and the circumstances of the offense. Some of the most relevant legal provisions are discussed below.

1. Destruction of Public Buildings and State-Owned Property (Article 259): According to Article 259 of the Penal Code, any person who deliberately destroys or damages public buildings, state-owned properties, or assets belonging to public institutions shall be sentenced to medium- or long-term imprisonment, depending on the severity of the crime. However, if the offense occurs under emergency conditions or is committed with the intent to cause disorder, panic, or fear, the crime is considered aggravated, and the perpetrator is sentenced to long-term imprisonment exceeding ten years.

(1) Any person who intentionally destroys public or state-owned buildings, properties dedicated to governmental institutions, public organizations, or entities legally established for public benefit in such a way that renders

them completely or partially unusable shall be sentenced to medium- or long-term imprisonment.

(2) If the offense specified in paragraph (1) is committed in a state of emergency, with the intent to create disorder or instill fear in the public, the offender shall be sentenced to long-term imprisonment exceeding ten years. (Penal Code of Afghanistan, 2017).

2. Destruction of Public Infrastructure for Terrorist Purposes (Article 269): Article 269 of the Penal Code addresses offenses involving the destruction of public infrastructure for terrorist purposes. If an individual damages or disables public infrastructure such as transportation networks, energy facilities, or water supply systems with the intent of committing a terrorist act, they shall be sentenced to the maximum term of long-term imprisonment.

(1) Any person who, with the intent to commit a terrorist act, destroys or severely damages public infrastructure, disrupts its functionality, or renders it unusable shall be sentenced to the maximum term of long-term imprisonment (Penal Code of Afghanistan, 2017).

3. Arson (Article 344): Afghanistan's Penal Code also criminalizes arson as a serious offense. Article 344 states that any person who deliberately sets fire to movable or immovable property belonging to another person shall be sentenced to short-term imprisonment. Although the article does not explicitly specify whether "another person" includes public entities, it can be reasonably inferred that public property falls within the scope of this provision. Furthermore, if arson is committed against certain public utilities or facilities, the offender is sentenced to second-degree life imprisonment. The Penal Code explicitly lists the following as aggravating circumstances:

(1) Any person who intentionally sets fire to movable or immovable property with the intent to cause harm to themselves or others shall be sentenced to short-term imprisonment.

(3) If the act of arson is committed in any of the following locations, the offender shall be sentenced to second-degree life imprisonment:

- Rail transport facilities, including railway engines, passenger train cars, or airport terminals.

- Public areas where large numbers of people reside or frequently gather.

- Government buildings, state-owned enterprises, or public institutions (Penal Code of Afghanistan, 2017).

In addition to the penalties discussed earlier, Afghanistan's Penal Code also prescribes imprisonment for various offenses against public property, including disrupting public transportation, damaging communication systems, deforestation, and desecration of graves. Below are some of the key legal provisions addressing these crimes?

1. Disruption of Public Transportation (Articles 360 & 361): Any act of negligence or recklessness that disrupts public transportation or causes significant damage to public property is punishable by medium-term imprisonment.

According to Article 360 of the Penal Code, if a person deliberately endangers or disables public transportation infrastructure such as vehicles, railway tracks, terminals, or other transportation facilities they shall be sentenced to medium- or long-term imprisonment.

(1) Any person who intentionally endangers or disables public transportation vehicles, routes, premises, facilities, or infrastructures related to motorized land, water, or railway transport shall be sentenced to medium- or long-term imprisonment, depending on the circumstances (Penal Code of Afghanistan, 2017).

Additionally, Article 361 of the Penal Code states that if such an offense is committed due to negligence or recklessness, the offender shall be sentenced to medium-term imprisonment of up to three years.

(1) Any person who, due to recklessness or negligence, endangers the safety of public transportation vehicles, routes, premises, facilities, or infrastructures related to motorized land, water, or railway transport, shall be sentenced to medium-term imprisonment of up to three years (Penal Code of Afghanistan, 2017).

2. Damage to Telecommunication Systems (Article 365): The Penal Code also criminalizes the deliberate destruction of telecommunication systems, which can disrupt public communications and emergency services. Any person who intentionally destroys or disables telecommunication systems in any manner shall be sentenced to short-term imprisonment (Penal Code of Afghanistan, 2017).

3. Destruction of Public Buildings and Infrastructure (Article 368): The deliberate destruction of public buildings, state-owned properties, or assets allocated for public benefit is explicitly criminalized under Article 368 of the Penal Code. Any person who intentionally destroys public buildings, state-owned properties, or properties dedicated to governmental institutions, public benefit organizations, or general public use shall be sentenced to a maximum of short-term imprisonment or a fine ranging from 30,000 to 60,000 Afghanis (Penal Code of Afghanistan, 2017).

4. Deforestation, Road & Park Destruction (Article 369): Cutting down public trees, damaging roads, parks, or recreational areas is also classified as an offense against public property. Any person who intentionally cuts down trees or destroys public roads, parks, or recreational areas shall be sentenced to short-term imprisonment of up to six months or fined between 5,000 and 30,000 Afghanis. Additionally, the offender shall be required to compensate for damages, including the costs of replanting trees and restoring the affected facilities (Penal Code of Afghanistan, 2017).

5. Desecration of Graves (Article 694): While legal debates exist regarding whether graves qualify as public property, Afghan law—following prevailing social customs classifies grave desecration as an offense against public assets. Any person who, without religious or legal authorization, destroys or desecrates a grave or cemetery shall be sentenced to short-term imprisonment or fined

between 30,000 and 60,000 Afghanis (Penal Code of Afghanistan, 2017).

6. Theft from Places of Worship (Article 708): Another significant crime against public property is theft from places of worship. Since mosques and other religious sites serve the entire community, Afghan law categorizes such theft as an offense against public property. Any person who commits theft inside a place of worship, including mosques and other religious establishments, shall be sentenced to medium-term imprisonment of no less than three years (Penal Code of Afghanistan, 2017, Article 708). This legal provision is based on the principle that religious institutions belong to the public, and any violation against them constitutes a crime against public property.

7. Land Usurpation (Articles 715 & 716): Another critical offense under Afghan law is land usurpation, which includes illegal occupation, unauthorized use, or unlawful transfer of government, public, private, or endowed land. Article 715 of the Penal Code defines land usurpation as:

“The occupation, appropriation, usage, transfer, mortgage, guarantee, lease, or rental of government, public, private, communal, or endowed lands without valid legal documentation or authorization.” (Penal Code of Afghanistan, 2017). Additionally, Article 716 prescribes the penalties for land usurpation:

(1) Any person convicted of land usurpation shall, in addition to returning the land, be subject to the following penalties: (Penal Code of Afghanistan, 2017). (The specific penalties are detailed in the subsequent legal provisions.)

Afghanistan’s Penal Code imposes various levels of imprisonment for land usurpation (ghasb-e-zamin) depending on the value of the land in question. The severity of the punishment increases proportionally with the economic impact of the crime. According to Article 716 of the Penal Code, individuals convicted of land usurpation are subject to the following penalties:

(1) The convicted person, in addition to returning the land, shall be sentenced as follows:

- If the land’s value is up to 300,000 Afghanis, the offender shall face short-term imprisonment.

- If the land’s value exceeds 300,000 Afghanis but is less than 1 million Afghanis, the offender shall face medium-term imprisonment of up to two years.

- If the land’s value exceeds 1 million Afghanis but is less than 5 million Afghanis, the offender shall face medium-term imprisonment of more than three years.

- If the land’s value exceeds 5 million Afghanis, the offender shall face long-term imprisonment of up to ten years (Penal Code of Afghanistan, 2017, Article 716). Moreover, the Penal Code introduces additional legal consequences for land usurpation in certain situations:

- If the usurped land belongs to the public or is endowed (waqf) and was sold for residential construction, the offender must return the received money to the state treasury, in addition to serving the prescribed punishment

(Penal Code of Afghanistan, 2017).

- The convicted individual must return the land, and any legal documents they presented as proof of ownership shall be deemed null and void. (Penal Code of Afghanistan, 2017).

In addition to direct land usurpation, Afghan law recognizes crimes that, while not technically usurpation, are treated as equivalent offenses due to their impact on public resources. These include illegally occupying or using public water sources, forests, or other communal lands for personal gain. According to Article 719 of the Penal Code: Any person who unlawfully takes possession of or exerts ownership over public water resources, including riverbanks, canals, streams, springs, underground water reserves, wetlands, grazing lands, hills, or mountains, shall be treated as committing land usurpation and shall be sentenced to medium-term imprisonment ranging from one to five years (Penal Code of Afghanistan, 2017). Historical and cultural assets are classified as public property, as they belong not only to the state but to the entire nation across generations. Any destruction or damage to these assets is treated as a criminal offense. Protection of Historical and Cultural Monuments (Article 731): (1) any offense committed under this section shall be treated as a crime against historical or cultural heritage, and the offender shall be punished accordingly. (2) For the purpose of this section, historical or cultural heritage includes:

- Movable or immovable property of cultural significance to the nation, including architectural, artistic, or historical buildings, archaeological sites, manuscripts, rare books, and scientific collections.

- Museums, libraries, and archives designed to preserve and display cultural assets (Penal Code of Afghanistan, 2017). Since historical and cultural assets are considered public property, Afghan law imposes strict penalties for their destruction or illegal trade:

- Any person who intentionally damages, destroys, or defaces a historical or cultural asset shall be sentenced to medium- or long-term imprisonment (Penal Code of Afghanistan, 2017).

- If destruction or loss occurs due to negligence by a responsible official or guardian, they shall be sentenced to medium- or short-term imprisonment (Penal Code of Afghanistan, 2017). Illegal Trade and Smuggling of Cultural Artifacts (Articles 735-736). The unauthorized removal, trade, or smuggling of historical and cultural artifacts is strictly prohibited under Afghan law:

- Any person who removes a historical or cultural artifact from its designated location without official authorization shall be sentenced to medium-term imprisonment of up to two years (Penal Code of Afghanistan, 2017).

- If this act leads to destruction, alteration, or loss of the artifact, the offender shall face medium- or long-term imprisonment of up to eight years (Penal Code of Afghanistan, 2017).

- Illegal sale, purchase, storage, transportation, or smuggling of cultural artifacts is punishable by medium-

or long-term imprisonment (Penal Code of Afghanistan, 2017).

- If a person imports a prohibited historical or cultural artifact into Afghanistan, they shall be sentenced to short-term imprisonment or fined between 30,000 and 60,000 Afghanis (Penal Code of Afghanistan, 2017). Since the environment is a shared national resource, any act that damages forests, pollutes rivers, or harms green spaces is treated as a crime against public property. Pollution and Environmental Damage (Article 807).

(1) Any person who releases harmful pollutants into water, soil, or air at levels that pose risks to humans, animals, plants, or buildings shall be guilty of an environmental crime and shall be sentenced to medium-term imprisonment.

(2) If this crime results in bodily harm, psychological harm, or death, the offender shall, in addition to long-term imprisonment, be subject to further penalties (Penal Code of Afghanistan, 2017). Poisoning Public Water Supplies (Article 814):

(1) Any person who deliberately contaminates a public well, reservoir, or other water source with toxic or microbial substances, endangering public health, shall be sentenced to second-degree life imprisonment (16 to 20 years).

(2) If this crime results in death, the offender shall be sentenced to death (Penal Code of Afghanistan, 2017). If such an act occurs due to negligence, the punishment is reduced to medium-term imprisonment. Destruction of Public Utilities (Article 816): (1) any person who intentionally damages public infrastructure, including water, electricity, and gas utilities, shall be sentenced to medium-term imprisonment of up to two years. (2) If the crime is committed through negligence, the punishment is reduced to short-term imprisonment (Penal Code of Afghanistan, 2017). Deforestation and Illegal Logging (Article 827), Any person who illegally cuts down trees in state-owned or communal forests or smuggles timber shall, in addition to confiscation of the timber, be sentenced to medium-term imprisonment of more than three years (Penal Code of Afghanistan, 2017). Intentional Flooding (Articles 849-850), the deliberate creation of floods that endanger public and private property is criminalized under Afghan law. (1) Any person who intentionally causes a flood that threatens public or private property shall be sentenced to long-term imprisonment (Penal Code of Afghanistan, 2017). If flooding is caused accidentally, but results in damage to public infrastructure, the punishment is long-term imprisonment of up to seven years (Penal Code of Afghanistan, 2017).

Monetary Fines (Financial Penalties)

Another key aspect of criminal protection of public property under Afghanistan's Penal Code is the imposition of monetary fines.

Concept of Monetary Fines

Monetary fines (*jazā-ye naqdi*) refer to financial penalties

imposed by law as punishment for certain crimes. Unlike blood money (diyah) or debts (dayn), which can be inherited and paid from the deceased's estate, monetary fines are strictly personal and expire upon the death of the convicted individual. Additionally, fines cannot be negotiated or paid to the victim or their heirs instead, they are deposited into the state treasury (Hasanzadeh, 2011). Historically, before formal governments were established, monetary compensation (gharamat) was used to settle disputes in tribal societies. The amount of compensation depended on the extent of the damage and the power dynamics between the conflicting parties. However, with the formation of modern legal systems, state-regulated fines replaced these informal practices.

Afghanistan's Penal Code recognizes monetary fines as a supplementary or alternative punishment alongside imprisonment for crimes against public property. Below are some key legal provisions in which financial penalties are imposed.

Fines for Environmental Crimes and Destruction of Public Lands

One of the primary categories where fines are imposed is environmental damage and destruction of public lands.

- Illegal burning or destruction of pastures (alaf-charha) is classified as a crime against public property and is punishable by a monetary fine.

- Negligence leading to the destruction of public telecommunication systems also incurs fines ranging from 5,000 to 30,000 Afghani (Penal Code of Afghanistan, 2017).

Since telecommunication infrastructure can be either privately owned or state-owned, any damage to state-owned communication networks, which serve the general public, is treated as a crime against public property.

Fines for Destruction of Public Buildings and Infrastructure

- Any person who intentionally destroys public buildings, state-owned properties, or assets designated for public benefit shall be fined between 30,000 and 60,000 Afghani (Penal Code of Afghanistan, 2017).

- Any person who deliberately cuts down trees, damages public roads, parks, or recreational areas shall be fined between 5,000 and 30,000 Afghani, in addition to paying for the cost of restoration (Penal Code of Afghanistan, 2017).

Fines for Desecration of Graves and Religious Property

- Destroying or damaging graves and tombs, which are classified as public property, is punishable by a fine of 30,000 to 60,000 Afghani (Penal Code of Afghanistan, 2017).

- Theft of low-value items (less than 5,000 Afghani) from places of worship is punishable by a fine of 10,000 to 60,000 Afghani (Penal Code of Afghanistan, 2017). Since places of worship such as mosques serve the general

public, any crime committed against their property is treated as a violation of public assets.

Fines for Illegal Construction on Public Lands

- Unauthorized construction on public land designated for mining or oil and gas extraction is punishable by a fine of 120,000 to 300,000 Afghani (Penal Code of Afghanistan, 2017).

Fines for Environmental Violations

The Penal Code also imposes fines for environmental crimes, in addition to imprisonment:

- Failure to comply with environmental regulations set by the National Environmental Protection Agency (NEPA) results in fines ranging from 60,000 to 100,000 Afghani (Penal Code of Afghanistan, 2017).

- Illegally cutting down trees or destroying green spaces in public areas results in fines between 5,000 and 10,000 Afghani (Penal Code of Afghanistan, 2017).

CONCLUSION

This study aims to scrutinize the criminal protection enacted for the purpose of protecting public property in Afghanistan and look for gaps or deficiencies in the legal structures and enforcement mechanisms. In this study, a descriptive-analytical research method was used, and data were collected through library studies to examine the relevant legal statements. It also attempts, on a limited basis, to assess how jurisdictions have dealt with similar problems, and the lessons to be learned from other states that could apply to Afghanistan. The results show that in Afghanistan's legal system, public property is defined as property that has been allocated to be used for the common good and benefit of society. All criminal penalties such as capital punishment, imprisonment, fine, and reparation, according to the seriousness and character of offense punish such a gainful assault on the possession. In practice, however, frequent problems with enforcement and no population-specific laws significantly reduce the effectiveness of these sanctions. For effective and uniform enforcement of these criminal protections, Afghanistan's criminal policy must be strictly applied to violators. "Crimes against state property are serious and impact the nation as a whole, and a stringent penal approach combined with reforms in institutions and awareness among the public on legal affairs, is the only way for society to gradually accept the importance of the rights of public property, and also avoid any unlawful attack on such property," it said. Moreover, the review and adoption of the appropriate international best practices and the strengthening of mechanisms of legal oversight can reinforce the protection of public property in existing and new legislation in Afghanistan. It outlines the gaps in criminalization and enforcement of crimes against public property, and argues for much more comprehensive institutional reform in addition to existing patchwork laws. Though Afghanistan's legal framework allows for different kinds of penalties, corruption, lack

of coordination, and poor implementation tarnish the effectiveness of such sanctions. However, based on tested comparative legal frameworks, the protection of public assets in Afghanistan could substantially improve with a focus on international best practices in relevant law. However, based on tested comparative legal frameworks, the protection of public assets in Afghanistan could substantially improve with a focus on international best practices in relevant law.

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