



Critique of Afghanistan's Criminal Judicial Policy on Criminal Influence

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Abstract

Criminal abuse of influence; in addition to disrupting the rule of law and governance, is one of the complex and serious problems of Afghanistan's judicial system and an obstacle to criminal justice. While the administration of criminal justice and the rule of law are considered the most important issues of governance and the judicial and legal system, this article, using a descriptive-analytical method and relying on library and documentary sources, attempts to answer this question: What deficiencies does Afghanistan's judicial-criminal policy face in dealing with criminal abuse of influence? Although this behavior is criminalized under the title of 'abuse of influence' in Afghanistan's Penal Code, findings from examining various dimensions of judicial-criminal policy in dealing with this phenomenon show that legal gaps, weak independence of the judiciary, inefficiency of oversight institutions, lack of coordination between judicial and legal institutions; non-compliance with fundamental criminal principles and sentencing standards, susceptibility of courts and judges to influence, and interference and influence by individuals throughout the judicial process are considered the most significant challenges in the judicial and legal system. The aforementioned deficiencies have led to increased corruption and public distrust in the judicial system, weakened the rule of law and judicial institutions, as well as caused the spread of judicial deviation and social disorder. Measures such as legislative reform and the development of comprehensive and clear laws regarding the crime of abuse of influence, specialized training for judges and staff of judicial and investigative institutions, implementation of measures to reduce political interference and ensure judicial independence, strengthening independent oversight institutions and increasing transparency, establishing effective mechanisms for cooperation between judicial and legal institutions to reform and strengthen judicial-criminal policy regarding criminal abuse of influence; are proposed.

Keywords: *Crime and Punishment; Criminal Policy; Criminal Judicial Policy; Criminal Influence*

Introduction

In the criminal justice system, police, prosecutors, and courts are considered the main pillars and foundational elements of judicial and legal institutions that play a decisive role in the criminal cycle to ensure justice, maintain order, and safeguard the rights of individuals and society. For this reason, the position of the judiciary in comparison to the legislative and executive branches of government is seen as stronger, more influential, and more prominent in the matter of crime prevention. Judicial criminal policy,

alongside legislative and executive criminal policies, is considered one of the serious discussions in a country's comprehensive and inclusive criminal policy.

The entity responsible for judicial policy regarding criminal prevention of crime, in accordance with its inherent duties and jurisdiction, is the judicial branch of government. Therefore, it has been emphasized that an effective judiciary must be able to decisively, relentlessly, and comprehensively combat those who disrupt social, economic, cultural, political, and scientific security in cooperation and coordination with other components of the system, and bring justice, freedom, and peace of mind to all people. (Pakdah Latifi, 2004: p. 80) Since the inherent duties of the judiciary are reactive to crime, meaning judicial (criminal) authorities are obligated to take reactive measures against committed crimes after their occurrence. (Shiri, 2007: p. 50)

Criminal abuse of influence, which is considered a type of deviation from the correct and conventional social path and misuse of position and status, means the illegal use of power or position to alter legal and administrative processes, which hinders the realization of justice. This behavior, committed by natural and legal persons in various ways to obtain illegitimate material and moral benefits from an office or official authority, is among the manifestations of administrative corruption and one of the most important crimes that have affected various political, administrative, social, economic, and cultural spheres and posed serious challenges to institutions and offices.

Therefore, examining judicial criminal policy and coercive measures against criminal abuse of influence adopted by judges and courts is more significant compared to other reactive measures of the government; because the judiciary and judicial actors, through precise and expert evaluations of cases involving abuse of influence, fair and decisive adjudication and rulings, can play a more effective and efficient role in reducing, preventing, and eliminating the crime of influence from Afghanistan's administrative, political, and social systems compared to other relevant institutions.

However, objective realities, evidence, and research on the performance of Afghanistan's judicial system indicate that the record of Afghanistan's judicial criminal policy regarding many crimes, especially criminal abuse of influence, is not only indefensible but also faces numerous shortcomings. Because criminal abuse of influence has not only affected the performance of the judiciary but has also overshadowed the legislative and executive branches, it has violated the principle of the rule of law and posed serious challenges to Afghanistan's governance system and administrative and economic structures.

The present research attempts, through a descriptive-analytical method and library and documentary studies, to critically analyze and examine Afghanistan's judicial criminal policy regarding criminal abuse of influence and to propose some solutions for overcoming challenges and obstacles to improve and reform. This requires first discussing the necessities of judicial criminal policy in light of the principles, objectives, and established standards of criminal law. Then, identifying and enumerating the existing shortcomings in judicial institutions, and finally proposing some solutions to address these challenges.

The Requirements of Criminal Judicial Policy Regarding Crimes and Criminal Influence

"Criminal policy" in its narrow sense refers to policies adopted against crime, limited to criminal handling through the judicial system. (Qiyasi, 2008: p. 40) Judicial criminal policy, in its specific meaning, refers to the criminal policy reflected in the decisions and actions of courts of justice. (Lazerges, 2017: p. 148) In reality, it is the policy that the judiciary, particularly justice court judges, implement in enforcing the law, which reflects legislative criminal policy during judicial proceedings and interpretation. Although it may not fully align with legal provisions; because the legislator's messages regarding criminal policy are understood and accepted in different ways. (Rahmdel, 2007: p. 16)

Active influence peddling refers to a person who attempts to exert influence through their criminal behavior in one of the governmental or public institutions, or at least claims to have influence. Passive influence peddling refers to individuals in governmental organizations or public institutions who, under the influence of others, commit criminal acts. (Kosha, 2012: p. 161) In reality, influence peddling means the abuse of special relationships to infiltrate administrative structures, which results in consequences such as increased social discrimination, nullification of societal efforts, entrusting affairs to unqualified individuals, etc. (Beheshti, 2012: p. 91) In contemporary societies, the most important factors of discrimination among people include financial status, occupation, social standing, and connections to the ruling elite, which opportunistic individuals exploit in their dealings with other people and the government to gain more benefits and better positions at the expense of others' rights. (Basiri, 2014: p. 93) Therefore, influence peddling is another form of deviation from the right path that is not necessarily accompanied by financial corruption and can be classified under administrative corruption, which is a broader concept than financial corruption. (Rahmdel, 2008: p. 38)

Thus, the requirement for an effective and impactful judicial criminal policy in combating crimes, particularly against criminal influence peddling, first involves adhering to certain fundamental judicial and criminal components and rules. Principle-based, goal-oriented, and standard-based approaches are among these components and criteria in judicial institutions. The next step, after identifying the structural and behavioral shortcomings and weaknesses of the judiciary regarding criminal influence peddling, is the adoption of decisive, inevitable, and transparent criminal measures in enforcing rulings against offenders and lawbreakers, which is another necessity for an effective judicial criminal policy.

A. Principle-Based Approach as the Foundation of Criminal Justice Policy

The judiciary and courts are obligated to adhere to specific rules and regulations when determining punishments for offenders. They must consider these guidelines during sentencing and administer penalties based on criminal law doctrines and legal provisions. The sentencing phase is essentially a process through which the government responds to individuals who have violated the law and whose guilt has been previously established through an independent judicial process. (Mehra, 2010: p. 65) Defining and identifying sentencing standards and patterns for judges helps ensure fair trials by preventing arbitrary punishments that don't correspond to the offender's character. Judges are then required to reference these standards and judicial decision-making principles in their rulings. (Rahimian & Mohseni, 2019: p. 65)

The rules and principles influencing sentencing decisions encompass numerous criminal components and indicators emphasized by legal scholars and criminal policy makers. Afghanistan's Penal Code and Law on the Organization and Jurisdiction of the Judiciary have addressed this matter, clearly and explicitly outlining legal obligations and responsibilities for courts and judicial institutions in this regard.

1. Observing the Principles and Rules in Determining Punishment

The primary issue that judges must consider and adhere to in the realm of adjudication and punishment is using the principles and rules outlined in criminal laws as well as general criminal law principles as their standard. (Ghorbani Nia, 2002: p. 244/ Nourbaha, 2001: p. 53) This crucial matter has been explicitly addressed by the legislature in numerous articles of Afghanistan's Penal Code, with emphasis on its observance throughout the criminal process. (Penal Code, 2017: Articles 2, 3, 207)

This issue is particularly significant because imposing penalties and punishing offenders represents society's and citizens' response, implemented by the government and judicial institutions to achieve justice, security, and public order. Therefore, in the pursuit of justice, neither should unjust and unfair punishments be imposed on convicts, nor should individuals escape trial and punishment by

disregarding the principle of punishment. The failure to prosecute and punish those who abuse their influence constitutes one of the serious criticisms leveled against Afghanistan's judicial system.

2. Paying Attention to the Situation of the Crime and the Offender

Achieving a logical and reasonable basis for determining punishment requires adherence to principles and rules that prevent arbitrariness by punishment administrators, create limitations for legislators in criminalizing behaviors, and avoid outcomes such as cynicism, vengeance, malice, and obstinacy. (Sabzevari Nejad, 2017: p. 134) Afghanistan's Penal Code emphasizes that judicial institutions and courts must observe certain important principles and considerations that contribute to achieving justice and are essential for a fair penal system: "The court is obligated, when determining punishment, to consider the motive and nature of the crime, the proportionality of the danger and social or individual harm of the committed crime, the personality, circumstances, and background of the accused, as well as mitigating and aggravating circumstances of the crime." (Penal Code, 2017: Article 208)

Therefore, just as attention to the principle of individual case files and consideration of the crime and criminal's circumstances is a fundamental criminal principle that is also functional and supported by modern penal systems for all criminal phenomena, it holds particular importance regarding the crime of influence and its perpetrators. By observing this established criminal principle, perpetrators of influence crimes can be held accountable according to the extent of damage and harm caused to society and citizens, and appropriate punishments can be determined for them.

3. Observance of Special Aggravating Circumstances in Crime and Punishment

Another crucial stage in determining punishment is the consideration of special aggravating circumstances or specific provisions for each crime and its penalty. Just as attention to mitigating circumstances in sentencing is considered a criminal necessity and a requirement of fair trial for courts and judges, equal attention to general aggravating circumstances and crime-specific aggravating factors is an important matter worthy of judicial criminal policy. This must be taken into account by courts when imposing penalties and determining punishment for offenders. (Penal Code, 2017: Article 210)

B. Purpose-Orientation; The Justificatory Basis of Judicial Criminal Policy

The trial and imposition of punishment upon offenders, along with the justification for applying penalties, constitute central debates in judicial criminal policy. The rationale for punishment and its imposition on wrongdoers has given rise to various approaches and perspectives among criminal jurists and experts in the field of crimes and penalties. Contemporary legal systems, in accordance with their penal policies, establish punishment types based on objectives such as 'retribution,' 'deterrence,' 'rehabilitation/reformation and treatment,' and 'incapacitation'—whether adopted singularly or in combination. (Qomashi & Motaqi Ardakani, 2020: p. 94)

Within this framework, retribution—grounded in a backward-looking approach—primarily focuses on the criminal 'act' and the offender's conduct. This behavior and the committed act serve as the sole criteria for measuring and determining punishment, representing society's proportional response to crime. Conversely, rehabilitative, reformatory, and incapacitation approaches adopt a utilitarian and forward-looking perspective, considering an appropriate reaction to crime as their benchmark.

1. Retribution

The theory of retributivism, as one of the oldest justifications for imposing punishment, revolves around the offender's desert and seeks to address past wrongdoing. In essence, retribution embodies a backward-looking approach to crime and the criminal, focusing solely on the criminal act committed by the offender – an act that violates penal norms and disrupts public order. Under this approach, the

offender must be punished solely because they deserve it, with desert constituting the only legitimate basis for justifying punishment. Proponents of retributivism oppose consequentialist theories, arguing that these theories attempt to justify punishing past crimes merely to achieve the benefit of preventing future offenses. (Davoudi Garmaroudi, 2005: p. 70)

2. Correction and Rehabilitation

The rehabilitative approach is a relative and complex concept that refers to gently strengthening an individual's ability to adapt and comply with the law. Punishment should aim to reform the offender and be determined and implemented in a way that facilitates education and rehabilitation, ensuring the offender does not return to criminal behavior. The fundamental premise of rehabilitation as one of the general objectives of punishment is that offenders commit crimes due to specific factors (social, economic, psychological, behavioral, physical, etc.) or under particular circumstances (social, economic, psychological, behavioral, physical, etc.), and appropriately addressing these factors and circumstances can prevent further criminality. (Rabbani Mousavian & Bakhshi, 2020: p. 62) In essence, rehabilitation focuses on correcting and treating the internal and external factors that drive individuals toward criminality, and understanding these factors and motivations is crucial for effective rehabilitation. (Hallaway, 2014: pp. 68-73)

Thus, under this approach, the purpose of punishment is to reform the offender and prevent recidivism. The goal is not moral improvement of the offender, as criminal law considers social improvement—guiding former offenders toward adherence to basic societal norms—sufficient. In practice, the focus is on the social reintegration of the offender.

3. Deterrence

The deterrence approach gains its validity through threatening both offenders and society with unpleasant consequences of committing crimes, and is inherently associated with severity. The doctrine of penal deterrence and its impact on offenders and potential offenders not only serves as an important justification for punishment but also reflects the expectation that punishment acts as the primary deterrent against criminal intent. Deterrence represents one of the forward-looking objectives of punishment, focusing solely on the future and aiming to prevent recidivism by offenders.

In essence, the core idea of deterrence is that the fear of apprehension and imposition of criminal sanctions discourages individuals from committing crimes (Cantingham, 2005: p. 158). Punishment instills fear and apprehension in both offenders and other members of society. This element of fear and intimidation serves a deterrent function. Fundamentally, humans value their life, liberty, property, dignity and reputation, and the potential deprivation of any of these divine blessings creates anxiety and fear, which in itself becomes a means to restrain individuals from violating the rights of others and society.

4. Removal and Incapacitation

The concept of incapacitation, which aims to remove criminal capability, is primarily based on necessity - the recognition that deterrent or rehabilitative punishments prove ineffective for certain offenders. Since some criminals will offend whenever possible, society's only means of self-protection lies in isolating or disabling these offenders' criminal capacities. Unlike rehabilitation and deterrence, incapacitation doesn't operate through internal conscious changes, but rather through physical prevention of further criminality. Incapacitation functions at two levels: severing the connection between offenders and opportunities for further crimes, and eliminating offenders' material capacity to commit offenses. (Rabbani Mousavian & Bakhshi, 2020: p. 67)

It appears that punishing those who commit influence-peddling crimes can be justified under all the aforementioned punishment objectives and approaches. However, given the widespread nature of

these offenses and perpetrators' lack of fear regarding prosecution, prioritizing "deterrence and incapacitation" as sentencing criteria for influential offenders and position abusers seems most defensible and justifiable.

C. Standardization: The Foundation of Sentencing in Judicial Criminal Policy

The identification and analysis of contexts, indicators, and variables influencing the selection of criminal responses, followed by their systematic organization and purposeful, informed guidance, can play a significant and unparalleled role in establishing principled and scientific judicial practices aligned with defined penal objectives. (Rahimian & Mohseni, 2019: p. 64)

Thus, sentencing—the most critical phase of judicial proceedings—must be based on established criteria and standards that fulfill the objectives of punishment and ensure criminal justice.

In practice, judges must carefully and knowledgeably evaluate the benefits of punishment when sentencing violators of criminal law, considering both the positive and negative impacts of the sentence on the accused, their family, and the criminal justice system before determining an appropriate penalty. An effective, impactful, and beneficial judicial criminal policy emerges when policymakers, particularly judges and criminal adjudicators, meticulously deliberate on sentencing for offenders and convicts.

1. Objective Criteria

Objective (external) criteria influencing sentencing refer to factors outside the judge's personal disposition that guide their decision-making regarding the type and severity of punishment. (Mansourabadi et al., 2017: p. 145) The major objective criteria in sentencing include:

- **Legally Based Criteria:** Criminal law must be the primary and most crucial framework guiding judicial decisions in sentencing. "Criminal law" in its broadest sense encompasses jurisprudential and Sharia-based penal texts, penal codes, specific criminal statutes, criminal procedure principles, fundamental fair trial standards, and established principles of criminal law.
- **Jurisprudence-Based Criteria:** These criteria pertain to variables influencing judicial decisions that are not necessarily rooted in the sentencing judge's personal perspective. (Mansourabadi et al., 2017: p. 148) Under this criterion—which borders on subjective discretion—judges are granted some leeway in determining sentences based on contextual factors and circumstances. This approach is particularly applicable in cases involving aggravated offenses and their corresponding penalties.

2. Subjective Criteria

Unlike objective criteria, subjective criteria influencing judicial decisions refer to factors tied to the individual personality of the sentencing judge. These sentencing standards can be categorized as judicial attitude-based criteria and judge personality-based criteria, which exert a more significant influence on judicial decisions compared to objective criteria.

- **Judicial Attitude-Based Criteria:** This criterion emphasizes that judicial decisions are shaped not solely by law and precedent but also by personal attitudes. Judges must understand the qualitative aspects and methods of implementing punishments or preventive measures to select appropriate sanctions based on their assessment of the offender's personality, facilitating their reintegration into society under optimal conditions. (Boluk, 2006: p. 61)
- **Judge Personality-Based Criteria:** Among the most influential factors in judicial decision-making are the personal characteristics of the sentencing judge. However, judicial discretion must not sacrifice justice, individual rights, and freedoms at the altar of personal inclinations. (Aghaei Nia,

2006: p. 16) Undoubtedly, a judge's upbringing, education, cultural background, and traits—such as courage, moderation, integrity, impartiality, and erudition—play a vital role in ensuring fair sentencing, equitable trials, criminal justice, and the protection of defendants', victims', and society's rights.

Thus, adherence to both objective and subjective criteria in all crimes—especially in influence-peddling offenses—is a fundamental judicial necessity in criminal policy. Tailoring sentencing standards to the specific contexts of influential offenders and their crimes can significantly curb such offenses within Afghanistan's administrative, political, and social systems.

As discussed under principled, goal-oriented, and standardized judicial frameworks, their combined application is essential for effective penal measures and a robust judicial criminal policy, particularly against criminal abuse of influence.

Deficiencies in Judicial Criminal Policy on Influence-Peddling and Solutions

At a macro level, the judicial cycle is an intricate, protracted process beginning with crime detection and arrest, culminating in trial and sentencing. Multiple institutions participate, each playing investigative, prosecutorial, or adjudicative roles. However, courts bear the primary responsibility for addressing crimes and offenders.

In judicial criminal policy, legal authorities employ statutory tools to enforce laws across all stages—investigation, prosecution, trial, and punishment. Judicial interpretations of law, encompassing criminal definitions, procedural rules, and sentencing, are thus pivotal.

Yet, Afghanistan's judiciary lacks a defensible record in combating influence-peddling. Despite its constitutional mandate to adjudicate post-crime disputes, the government's judicial policy remains ambiguous, failing to implement clear measures to reduce or eliminate such offenses. The judiciary has neglected to take decisive action against those who exploit real or perceived influence to subvert legal processes, distort administrative/political procedures, and undermine judicial integrity.

Below are key shortcomings in Afghanistan's judicial system regarding influence-peddling crimes:

1. Susceptibility to Influence: A Serious Challenge to Judicial Independence and Impartiality

The existing problems in investigative processes and criminal proceedings within Afghanistan's judicial system and courts indicate widespread and somewhat organized corruption within judicial institutions. This challenge stems from systemic weaknesses and vulnerabilities in the judiciary. The influence of political, administrative, social, and military figures has directly compromised the impartiality and independence of judges and judicial bodies—despite these being fundamental pillars of any judicial system.

- **Susceptibility to Influence Undermines Judicial Independence:** International law emphasizes judicial independence in multiple instruments: Judges must decide cases based on facts and law, free from improper influence, pressure, threats, or interference (UN Basic Principles on Judicial Independence, 1985: Principle 2 / Universal Declaration of Human Rights, 1948: Article 10). An independent judge does not alter rulings due to fear of reprisal or job loss (Habibzadeh et al., 2010: p. 24). Independence entails immunity from political or executive control; when external powers manipulate courts or judges, and judicial safeguards against such interference are absent, independence is illusory (Amerinia et al., 2018: p. 193). Criminal influence-peddling is a primary obstacle to judicial independence.

In Afghanistan, interference by powerful figures is an undeniable reality and a key cause of institutional dysfunction. High-profile corruption cases are routinely derailed by influence-peddling, allowing guilty parties to evade justice.

- **Susceptibility to Influence Violates Judicial Impartiality:** Fair trial principles, grounded in the presumption of innocence and human dignity, require proceedings free from bias. Criminal trials are only fair when conducted by impartial courts respecting defendants' rights, excluding unlawful detention, coercion, torture, secret hearings, or denial of defense rights (Fathi & Dadvar, 2012: p. 134).
- **Susceptibility to Influence Fuels Systemic Corruption:** While Afghanistan's judiciary is constitutionally independent, relentless interference has eroded public trust. Judges face pressure from figures wielding real or perceived influence, leading to judicial errors and institutionalized corruption.

Judicial corruption encompasses any undue influence on court impartiality. The cycle begins at crime detection by police and extends through trials, with powerful actors—political, ethnic, or religious—distorting outcomes.

2. Absence of Oversight Mechanisms for Judicial Performance

Afghanistan's judiciary, lacking formal monitoring and evaluation systems compared to the legislative and executive branches, has faced minimal scrutiny from official oversight bodies, transparency advocates, or critics. Reform efforts and critical attention have primarily targeted the executive branch, with far less focus on the legislature, while the judiciary has remained largely shielded from accountability.

Although recent years saw steps toward judicial reform—including the 2016 National Justice Sector Reform Program as a comprehensive legal framework to combat corruption, and the 2018 Whistleblower Protection Law enabling citizen oversight of governmental and judicial institutions—these measures were never fully implemented.

The absence of judicial performance monitoring and opaque court operations have allowed influential figures to manipulate legal processes unchecked. Consequently, the judiciary ranks among the most corrupt institutions, eroding public trust. Numerous criminal cases have been derailed by interference, resulting in wrongful convictions and impunity for guilty parties.

3. Failure to Prosecute and Punish Perpetrators of Influence-Peddling

A critical flaw in Afghanistan's criminal policy is the judiciary's inability—despite laws like the 2017 Penal Code, 2018 Anti-Corruption Law, and 2007 Anti-Corruption Convention—to hold influence-peddlers accountable. Prosecuting such offenders could have deterred future crimes and safeguarded judicial integrity.

Thus, the judicial system's position regarding the crime of influence-peddling and its perpetrators suffers from two major deficiencies:

First Problem: Susceptibility of the Judicial System to Influence:

Unfortunately, as previously mentioned, influential individuals extensively exert their influence throughout all criminal processes, including all three stages of litigation. From primary courts to appellate courts and the Supreme Court, the judicial system has become a marketplace for mediation and favoritism by influence-peddlers who employ various methods and tricks to divert criminal proceedings from their proper course. As Transparency International's 2007 report explicitly states: "*Judicial corruption may*

encompass actions from pre-trial stages through trial proceedings and dispute resolution, even extending to final execution of judicial decisions by court officers." (Judicial Research Center, 2016)

Second Problem: Lack of Will and Decisive Action by Judicial Authorities: The judicial system and criminal courts' laxity and negligence in dealing with those suspected or accused of direct or indirect influence-peddling in various spheres has created another challenge that has weakened - if not completely nullified - the process of prosecuting and punishing perpetrators of influence-peddling. This situation within criminal courts has led to the proliferation of influence-peddling crimes and their repeated commission by abusers both within the judicial system and other government institutions.

Consequently, no preventive mechanisms or measures have been established by judicial policymakers and criminal decision-makers to ensure the judiciary's immunity against criminal influence and external illegal interference, or to prevent the susceptibility of judicial officials and personnel. Furthermore, the judiciary has not developed any clear strategy or plan for prosecuting and punishing influential offenders.

4. General Deficiencies in Judicial Proceedings and Their Impact on Prosecuting Influence-Peddling Offenders

Several systemic shortcomings and criticisms plague Afghanistan's judiciary, representing flaws in the country's judicial criminal policy that affect all crimes, including the prosecution and punishment of influence-peddling perpetrators:

1. Shortage of specialized professional personnel within judicial institutions and courts at both central and provincial levels;
2. Excessive judicial and administrative bureaucracy in most civil and criminal cases;
3. Unjustified procedural delays in litigation and trials, contrary to legal requirements;
4. Rising caseloads of criminal, administrative corruption, and organized crime cases;
5. Non-compliance with legal/administrative requirements by judicial/administrative officials in primary courts, appellate courts, and related departments;
6. Lack of serious political/judicial will to effectively investigate and conclude high-profile corruption cases involving powerful figures, officials, and influential individuals;
7. Insufficient coordination between judicial institutions and civil society/media;
8. Absence of e-judiciary systems, imposing excessive material/non-material costs on citizens;
9. Deficient judicial strategies/policies responsive to contemporary societal needs;
10. Judicial branch's negligence toward political/administrative/security threats impacting judicial work;
11. Underutilization of specialist advisors to strengthen judicial processes, fair trial standards, and human rights protections.

F. Solutions and Suggestions

While fundamental reforms in Afghanistan's judicial system - like other administrative, economic, political and cultural sectors - require comprehensive criminal policies and strategic planning across structural, financial and human resource dimensions (including professional judges and

civil/administrative staff), to be implemented through government-led mechanisms, the following specific measures are proposed to address the identified weaknesses in Afghanistan's judicial criminal policy:

1. Enforce judicial accountability: Mandate courts and judges to fulfill their constitutional duties in prosecuting all criminals, particularly influence-peddlers.
2. Judicial standards compliance: Ensure adherence to core principles (rule-based, purpose-driven, and standardized approaches) throughout criminal proceedings and sentencing.
3. Rule of law implementation: Strictly apply penal codes in criminal trials and administrative regulations for court staff.
4. Judicial independence protection: Maintain impartiality when trying influence-peddling cases and resist all external interference.
5. Judicial personnel reforms: Overhaul appointment/promotion systems to remove underqualified/unethical judges.
6. Anti-corruption mechanisms: Establish transparent processes to punish corrupt judicial officials.
7. Influence-proofing measures: Create legal safeguards against political/administrative interference in judicial processes.
8. Preventive frameworks: Develop systems to block interventions by powerful political/financial actors.
9. Systemic efficiency reforms: Streamline procedures for timely, fair case resolutions.
10. Consistent enforcement: Ensure rigorous prosecution of all offenders, especially influence-peddlers.

Conclusion

Criminal abuse of influence represents one of the most pervasive offenses undermining judicial justice and disrupting Afghanistan's administrative, political, and economic systems. The judicial criminal policy addressing this crime suffers from systemic inefficiencies and structural deficiencies. Judicial realities, court practices, and existing procedures within Afghanistan's legal system confirm substantial shortcomings in confronting criminal influence-peddling.

Key challenges include: dereliction of judicial duties by legal authorities, absence of mechanisms to counter unlawful influence, non-compliance with essential judicial criminal policy standards regarding sentencing principles and objectives, and extensive interference by political, religious, and ethnic factions in judicial processes.

Structural reform of the judiciary and strengthening Afghanistan's penal policy against influence-peddling requires adoption of scientifically-grounded legal strategies, several of which were proposed in the solutions section. Preventing interference by political, ethnic, and religious factions as well as opportunists further demands that Afghanistan's judicial branch implement both internal systemic reforms and preventive strategic mechanisms. Such measures would enable the judiciary to counter the deeply entrenched phenomenon of influence-peddling that has permeated all layers of judicial institutions through proactive prevention.

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