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## Meetings and Sessions

**On December 16, 2018, Qanoonpoh Sayed Yousuf Halim met Ms. Eram Ahsan, senior legal advisor of Asian Development Bank.**

In this meeting, Ms. Ahsan presented the performance reports regarding the Asian Development Bank's cooperation with judicial organizations which was previously scheduled. The report contained Asian Development Bank's training programs for judges and courts' employees about addressing violence against women with presence of around 100 participants (judges) and details of the program as well as evaluation of those programs were published in English and Dari languages for better exchange of judges' experiences.



The chief justice appreciated Asian Development Bank's cooperation in the meeting and hoped that such

cooperation would extend in judicial stages, facilitation of site visits for directors and judges who address cases of violence against women and training the instructors of SC Judicial Training Center.

Mutually, Director of World Bank promised to review the cooperation in suggested fields with presence of representative of the judiciary and develop a monitoring plan on the condition of courts for addressing violence against women with the purpose of upgrading to the international standards and providing technical equipment as well as necessary facilities to the courts.

At the end, Ms. Eram Ahsan presented a manual titled “Judicial Training Program on Access to Justice and Law and Elimination of Violence Against Women” to the chief justice. The Manual, in the form of a book, was distributed to the participants. The chief justice appreciated and thanked Ms. Eram Ahsan for the manual.

## Chief Justice Meets Head of UNAMA Rule of Law Unit

On December 19, 2018, Chief Justice *Qanoonpoh* Sayed Yousuf Halim, met Ms. Romana Schweiger, Head of UNAMA Rule of Law Unit in Afghanistan.

First, Ms. Shweiger talked about implementing the promise of UNAMA on facilitation of judges' air travel to provinces and assured the continuation of cooperation as well as efforts in this field and other fields of technical and material needs with judiciary.



Likewise, she pointed the reform programs in judiciary, specifically the fight against administrative corruption and called judiciary's initiatives important in terms of fighting that phenomenon especially at judiciary level. She added that dimensions of this phenomenon are understandable, and we hope that corrective activities of judiciary overcome difficulties and undoubtedly UN would support these initiatives.

Afterwards, the Chief Justice talked about details of Supreme Court's planned activities on fighting corruption and added that he has performed tireless efforts in the last three years and is determined to eliminate corruption in all areas of his work.

Regarding the latest survey of Integrity Watch Afghanistan about judiciary, Mr. Halim added that publishing false and undocumented reports not only misleads public mentality, but also creates delusion in majority of judiciary and administrative employees' thoughts who perform judicial activities with sincerity and honesty.

Both parties discussed and exchanged views on problems relating to implementation of some laws and decrees.

## Report on Supreme Court Meetings

On December 04, 11, 15 and 20, 2018, Supreme Court High Council held periodic meetings under leadership of Chief Justice *Qanoonpoh* Sayed Yousuf Halim on issues included in agendas. Below are important decisions and approvals made by Supreme Court.



❖ *Pohanwal* Abdulqadir Adalatkhah, member of the Supreme Court High Council, presented report of their participation in “Effective Legal Aid Models Conference” that was held on December 18 and 19, 2018 with cooperation of the International Legal Foundation of Afghanistan in India. Deputy Attorney General, Deputy of the Justice Ministry, Head of Afghanistan Independent Bar Association and officials from international legal organizations had participated in this conference. They discussed mixed factors of legal aid and the need for them in Afghanistan at war, roadmap, policy and regulations of High Commission on Legal Aids, achievements and challenges ahead of

providing legal aid services to poor people in Afghanistan. Eventually, they agreed on establishing an appropriate model for better output of legal aid performances that considers judicial organization which helps in observance of opinions provided by the conference of justice institutions of the country to provide better services through legal assistance.

❖ “Draft Law on Interpretation of Legislative Documents and Review of Their Compliance with the Constitution” that was prepared based on provisions of article 121 of Afghanistan’s Constitution by Directorate of Research and Scrutiny was discussed profoundly. Due to its importance and to further discuss and consult the issues, it was instructed that the mentioned draft is given to judicial advisors for revision under supervision of the SC High Council members to enrich the draft law and present it in the coming High Council meeting.

❖ Regarding the non-standard and false report by Afghanistan Integrity Watch pertaining accusation of justice and judicial institutions for corruption, he explained that the report is false and not true because interviewing some individuals by two persons, disseminating the report to all the population of Afghanistan, false evaluation from judicial performances and unilateral as well as irresponsible publish of the report cannot overshadow tangible

achievements of the judiciary.

❖ Considering the judiciary's achievements in terms of reforming the judicial system especially in the fight against corruption, High Council rejected the report and, with due respect to mutual cooperation, emphasized that whichever organization wants to write a report on the judiciary should coordinate with the Supreme Court. On one hand, it is an Islamic and National responsibility of a person to identify and reveal the corruption and on the other hand, it should be based on realities and facts to be published for public awareness.

❖ The Procedure for Acceptance of Applicants for judicial stage, the draft of which is prepared with cooperation of Ministry of Higher Education, Independent Administrative Reform and Civil Services and civil society organizations, was approved in 28 articles following a profound revision and amendments as well as necessary additions along with the attached forms.

❖ This procedure is codified in accordance with the provisions of Regulation on Supreme Court Judicial Training and contains procedures related to pre and post judicial stage Kankor test, applicants' academic qualification, online and in-person registration phase, references responsible for implementation and



supervision of test, steps for reviewing applicants' documents, how to prepare written and oral test, and preferences in case applicants have obtained equal marks and assures to pave the ground for transparent Kankor test for the next round of judicial stage.

❖ Some of audit reports and scrutinizing views resulting from audit and evaluation of Nimroz and Badakhshan Appellate Courts' performance were discussed, and necessary disciplinary actions were taken following evidencing duty offenses of two judges of the above courts in accordance with provisions of Procedure for Addressing Judicial Offences.

❖ The council assured that all civil applications are address openly in the courts of Islamic Republic of Afghanistan. The courts must hold meetings with presence of parties involved or their legal representatives and explain rights, party's duties as well as obligations, observe procedural aspects of all the conditions mentioned in articles 49 to 52 of the Civil Procedures Code to better maintain legitimacy while addressing cases.

❖ Considering the Ministry of Public Health's request for instruction regarding transplantation, it was instructed to get opinions of Islamic Verdict & Vice and Virtues Department of Supreme Court with cooperation of representatives from Afghanistan Ulema

Council, Ministry of Haj and Pilgrimage and Ministry of Education and refer the issue to Ministry of Public Health so that the ministry can include necessary issues and parties involved in collateral/deeds offices and arrange them on the regulation being established regarding transplantation and refer them to the Ministry of Justice for further legal process.

❖ Considering request for instruction by SC High Council secretariat department regarding establishment of an equal procedure for handling requests of some applicants during appeals which reflected handling of claims related to confirmation of false testimony and forged as well as suspicions in the documents, the Directorate of Research and Scrutiny as well as the secretariat under supervision of *Qazawatpoh* Barat Ali Matin and *Qazawatpoh* Abdul Hasib Ahadi, members of the Supreme Court High Council, were assigned to have a thorough study on the case in accordance with provisions of Civil Procedures Code, Criminal Procedures Code and Law on Organization and Jurisdiction of the Courts of Judiciary and present their opinions in the next meeting.

❖ Considering a scrutinizing opinion regarding a commercial case in Nangarhar province, whereas the decision was first made to postpone the case due to not depositing the government's taxes and secondly, a

judicial verdict was issued to drop the appellant's right to complain and the verdict was finalized in the Supreme Court, the Directorate of Research and Scrutiny was assigned to review the case again under supervision of *Qazawatpoh* Barat Ali Matin and *Qazawatpoh* Abdul Hasib Ahadi, member of the High Council, and present their report in the meeting.

❖ Considering request for instruction by Kabul Commercial Primary Court regarding a commercial case in which the lawyer has placed property of his/her client under guarantee in the bank against a common traditional document, it was instructed that the Commercial Court Director should be present in the next meeting to provide further explanation and clarification on the issue.

❖ Regarding a request for instruction by Nangarhar province about procedures for processing property documents related to some residential plots given to individuals in the 40s Hijri Shamshi calendar, the Directorate of Research and Scrutiny was assigned to have profound review of the case under supervision of *Qazawatpoh* Barat Ali Matin, *Qazawatpoh* Abdul Hasib Ahadi and *Qazawatpoh* Mohammad Zaman Sangari, members of SC High Council, and present their report in the next meeting.

❖ Considering request for instruction by General

Directorate of Huqoq regarding a mortgaged property by the Kabul Bank, the current owner/occupant of the property has provided a certain deed and has prevented sale of the property against debt. It was instructed that there is not legal barrier to the enforcement of court's order on the sale and evacuation of the property and the customer can request the compensation/cost from the vendor since the property was sold illegally after signing of a contract for the sale of the property. The Kabul Bank settlement unit can file a lawsuit for cancellation of the issued deed in the respective court.

❖ Based on previous decision by the council, a request for appeal by General Directorate of Government Cases regarding property of the Ministry of Public Health in the center of the capital was profoundly reviewed with the presence of deputies of the Ministry of Justice and Kabul Municipality, representatives from the Kabul Municipality, Ministry of Public Health, General Directorate of Government Cases and parties. After hearing the required explanations and to reach the expected results, the General Directorate of Government Cases and representatives of the Ministry of Public Health was assigned to put efforts and find the property documents of the related site during maximum one month and present it in the next meeting.

❖ During the process of addressing other requests for appeal by the General Directorate of Government Cases, two requests related to provisions of article 482 of Civil Procedures Code was approved and the decision was made to revoke issued decisions on the favor of the government.

❖ 10 requests for criminal and civil appeal were discussed according to article 282 of the Criminal Procedure Code with the presence of *Saranpoh* Dr. Ghulam Haidar Alama, Deputy Attorney General for Judicial Prosecution and his colleagues, relatives and lawyers of some of the criminal convicts and legal decisions were made accordingly. Two cases were approved in accordance with predicted conditions set forth in article 482 of the Civil Procedures Code and issues decisions were revoked.

❖ In addition, 20 requests for change of courts in civil and criminal cases were addressed in the above meetings and based on AGO's request, 124 criminal cases were authorized to Appellate Courts of Khost, Sare Pul, Kunar, Kunduz, Balkh, Baghlan, Ghazni, Takhar, Logar, Ghor, Herat, Badakhshan, Paktika, Samangan, Badghis, Khost, Nangarhar, Kapisa, Daikundi and Faryab provinces and approval was made on sending out judicial delegation to address the cases in three other province.

## **Training and Capacity Building Center Opens in the Supreme Court**

Building and equipping the center was proposed by the Supreme Court and funded by Checchi project of ADALAT at domicile of the Supreme Court in two floors. The first floor is assigned for classroom covering 24 persons at a time and the second floor is selected as research center and meeting hall to discuss



holding of training programs at the meantime.

The mentioned center was officially inaugurated on December 24, 2018 by Head of General Administration of Judiciary, *Qazawatwal* Najibullah Akbari in presence of Director of Capacity Building and Performance Evaluation, Hamid Baha Ayar, Director of Human Resources, Gen. Abdul Hamid Yousufi,

General Director of Finance and Administrative Affairs, Mohammad Wasim Kashaf, Director of Recruitment and Records, Mir Yawmiddin, Director of Plan and Policy, Fitratullah Farhat, and other capacity building staff.

## **Basic Skills of Court Administrative System Training Program Held for Administrative Staff of Jawzjan, Samangan and Balkh Courts**

In the series of training programs, from November 25 to 27 2018, the Directorate of Capacity Building and Performance Evaluation launched basic skills of Court administrative system in Balkh province with financial cooperation of Justice Sector Support Program (JSSP) where staff from primary and appellate courts of Jawzjan, Samangan and Balkh provinces had also participated.

The program was carried out by an instructor of Directorate of Capacity Building and Performance Evaluation, Mohammad Nadir Sadiqi. At the end, Correspondence Director of Appellate Court, Paida Gul reminded efforts of the Directorate and said that correspondents and other staff should be virtuous and with professional knowledge and implement whatever they have learned. The program concluded by distributing certificates to the participants.



## **Delegation of the Supreme Court Participate in Colombo Follow-up Meeting of Case Management System in Indonesia**

A delegation of four individuals under supervision of General Administration of Judiciary headed to Jakarta of Indonesia to participate in Colombo follow-up conference. The conference continued for three days and representatives from AGO, MoI, Ministry of Justice, MoD, AIBA, Huqoq Department of Administrative Office of the President, Ministry of Labors and Social Affairs and Ministry of Public Health were present there. At first, representatives of the U.S. Department of State and Ambassador of Afghanistan to Indonesia welcomed the delegation, in the conference a board from the Supreme Court participated in CMS workshop who discussed challenges and solutions of both programs with other members whereas a directive was issued at the end stating that the justice and judicial institutions should work together to develop CMS and implement alternatives to imprisonment.

## **Judicial Care Performance Report for 2018**

Judicial Care, while recognizing its critical responsibilities, has taken serious measures in 2018 to fight corruption at judiciary level according to the approved plan.

The main duty of the Judicial Care Office includes prosecution of crimes committed by judges, administrative staff and other people who cause corruption in the courts of Judiciary, fighting bribery and corruption, bribery, duty negligence and misuse of official authority. Judicial Care Office always seeks to detect, identify and arrest Judiciary officials involved in corruption in the courts and other persons who misuse name and position of judicial officials and receive huge money from companions of lawsuit or visitors. As of tireless efforts of officials of this institution, about 62 persons, including a Judge, eight Correspondents and administrative staff of the court, five Attorneys and 48 others were arrested on charge of bribery, deception, duplicity and fake names from December of 2017 to December of 2018 and after completion of their primary investigations, their cases were referred to the relevant sources.

Judicial Care Office has controlled summons and no summons (availability/attendance) of court officials in the center as well as provinces nine times according to

its operative plan during 2018 and has identified 52 judges, 17 correspondents and other staff who were not present in their duties and reported them to the Supreme Court for further actions.

Based on an operative plan, that is already approved by the Supreme Court, officials of this administration controlled judicial behavior and other issues related to the central and provincial courts individually and group based and talked to court visitors regarding official behaviors, their work performances in the courts and their satisfaction level where most of the visitors expressed satisfaction from performances of court officials.

Meanwhile, entering of unjust witnesses and giving testimonies against cash in Deeds Department were identified and a written commitment were received from them not to enter to the courts again.

Due to telephone complaints regarding courts' performances, 49 complaints were addressed on time and necessary instructions were given.

Based on the instructions of the Supreme Court, 39 cases received by this administration were checked and their reports sent to the higher sources.

## **Report of Secretariat of the Supreme Court Regarding Implementation of Corrective Guidelines Against Judicial Violations**

On October, November and December 2018, based on a report of Secretariat of the Supreme Court in their multiple meetings and based on the reports of Judicial Audit General Department and scrutinizing views of Directorate of Research and Scrutiny, according to the judicial violations regulations, the following corrective guidelines were implemented on several judges after identification of judicial officials' violations:

1. Advise to 37 judges
2. Salary deduction of four judges
3. Warning issued to six judges
4. Job rotation for three judges as a punishment
5. Four judges pushed into retirement due to various violations
6. Temporary removal of two judges on charge of bribery.

## **Awareness Program was Conducted About Establishment of Courts for Elimination of Violence Against Women in a number of Appellate Courts of the Provinces**

Based on the instructions of Plan and Policy Department of Judiciary, Awareness Program about Establishment of Courts of Elimination of Violence Against Women was conducted in Kapisa Appellate Court open meetings hall on November 13, 2018.

The ceremony was inaugurated by reciting some verses of the Holy Quran and playing national anthem. Subsequently, Director of Kapisa Appellate Court, *Qazawatyar* Dawood Shah opened the ceremony. Later, the Director of Urban Court of the mentioned province, Director of Elimination of Violence Against Women Appellate Court and representatives from Directorate of Women Affairs and Civil Society talked about importance of awareness programs and access of women to the related courts and a presentation was presented by Manager of Plan Department, Hamid Omar. Answers were given to the questions and suggestions of participants were heard. The ceremony was concluded with prayers by Director of Kapisa Province Appellate Court.

On November 27, 2018, similar ceremony was launched in Balkh Appellate Court by an expert on monitoring implementation of programs, Fazlullah Abdali and the Supreme Court's Plan and Policy

Directorate Integrate Manager, Najibullah Ahmadzai. The ceremony was inaugurated by Director of Appellate Court of that province, *Qazawtyar* Mohammad Sharif Fani. Later, Director of Urban Court, Wajhuddin and Director of Appellate Court's Juvenile Primary Court, *Qazawatyar* Nargis Hafid zada, representatives of women's affairs and civil society of the mentioned province talked about the importance of awareness programs from establishment of courts of elimination of violence against women and access of women to it. Later, a presentation was presented by Fazlullah Abdali and answers were given to questions and suggestions. The ceremony was concluded by personal affairs and civil division Director of Appellate Court, *Qazawatyar* Sayed Asadullah Zaki.

Likewise, on November 28, 2018, awareness program was launched in Samangan province about establishment of courts for elimination of violence against women by Plan and Policy Directorate of the Supreme Court that was inaugurated by Director of Appellate Court *Qazawatmand* Abtah Arif, and then Director of Urban Court, *Qazawatyar* Abdul Momin Noori, member of elimination of violence against women primary court, *Qazawatmand* Sulaiman Samadyar, and representative of women affairs as well as representative of attorneys of the mentioned province, Quraishi Hitzada, talked about implementing the mentioned program. The program was concluded by Director of criminal division of appellate court, *Qazawatmand* Hamidullah Arwin.

## News and Events

- Judicial Care arrested 46 suspects on the charge of corruption during the last nine months. This institution has so far addressed 23 cases, received 22 calls complaining about corruption and received written commitments from 18 middlemen who used to disturb courts work to prevent them in the future.
- In the third Asian Countries Legal Training Program conducted by Legal Society of People of China in University of Greece, Kunming city, from 21 October to 11 November 2018, member of Judicial Department, *Qazawatmal* Enayatullah Hafiz participated on behalf of Afghanistan Judiciary. Comparative discussion was conducted about commercial, civil and criminal laws in the mentioned program and a presentation was presented by *Qazawatmal* Hafiz about organization and jurisdiction of courts of judiciary of Afghanistan to the representatives of Asian countries and Huqoq faculty students that was praised by representatives and students of Asian countries. At the end, their questions were answered.
- On December 8, 2018, Director of Public Security and Counter Corruption Division of Badghis Urban

Primary Court had an interview with (from justice to judiciary) program of RTA under title of (Introduction of Judiciary, Organization and procedures of criminal litigation in all tripartite courts) that was aired by the mentioned TV channel.



## ANTI-CORRUPTION

### **A: Report on Judicial Activities of Kabul Anti-Corruption Primary Court**

#### **1. Report**

Kabul Anti-Corruption Primary Court heard 21 cases of administrative corruption from November 22, 2018 to December 21, 2018. (36) persons were trialed for the charges of crimes such as misuse of official authority, forgery, embezzlement, treachery, bribery and illegal extortion. (4) persons were acquitted and (32) suspects were sentenced to following punishments of imprisonment and cash fine:



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- one month up to one year imprisonment (7 persons)

- one to five-years imprisonment (11 persons)
- 15 to 20 years imprisonment (1 person)
- Cash fine convicts (13 persons)
- Total amount of cash fine is (71380 USD)

**Table (1): Indicates Figures of Convicts of Kabul Anti-Corruption Primary Court for the Month of November/December 2018**

N o.	Type of Case	No. of Cases	Judicial Decision							
			No. of Accused	Acquittals	No. of Convicts	No. of Custodial Imprisonments				
						1 month to 1 year	1 to 5 years	5 to 15 years	15 to 20 years	Cash Fine Convicts
1	Misuse of official authority	4	6		6	1	1			4
2	Bribery	13	24		24	5	10			9
3	Embezzle ment	1	1		1				1	
4	Illegal Extortion	1	1		1	1				
5	Forgery and Treachery	2	4	4						
Total		21	36	4	32	7	11		1	13

In addition, the abovementioned court issued 12 judicial cases and sent them to the respective sources due to investigative gaps.

**Table (2): Indicates Judicial Rulings by Kabul Anti-Corruption Primary Court for the Month of November/December 2018**

No	Type of Cases	No. of Cases	No. of Accused	Ruling Cause	Respective Office
				Investigative Gap	
1	Misuse of official authority	4	9	4	Prosecution Office
2	Treachery	2	8	2	Prosecution Office
3	Embezzlement	3	9	3	Prosecution Office
4	Forgery	2	6	2	Prosecution Office
5	Smuggling Gold	1	3	1	Prosecution Office
Total		12	35	12	

**Summary of Verdicts Issued by Kabul Anti-Corruption Primary Court**

**Verdict dated November 26, 2018**

**Conviction of Logistics Officer of Counter-Crimes General Directorate for the Charge of Embezzlement of 3578250 AFN**

The suspect has worked as cashier, logistics officer, accounting officer and cashier for operations unit from 1986 to 1995. He has been working as logistics officer at counter-crimes directorate since February 06, 2014. All the money for operational expenses of respective units' required projects at central and provincial police and other requirements of the Counter-Crimes Directorate were paid to him. Moreover, required items of criminal technic department, internal and external travel allowance of the authorities were also paid to

him. Due to lack of satisfying documents, the suspect of embezzlement was liable for (43004540) AFN. However, he has emphasized during the investigation to have obtained satisfying legal documents for spending the amount he is being held liable against. He is being held under detention by the investigators for this reason. To maintain justice and review the suspect's statements regarding clearance of his dues, the investigation team has moved him from Kabul Detention Center and held him under surveillance inside Counter-Crimes Directorate so that he can access his documents and other expenses, currently available in Counter-Crimes Directorate, with the presence of a delegation of experts assigned by the investigation team. Because of investigation by the delegation of experts, some of his documents were cleared as a result of which, the amount of embezzlement has now been decreased.

After completion of primary investigations, the case was referred to Kabul Anti-Corruption Primary Court. In a judicial session held on November 26, 2018, the court sentenced the suspect to 16 years of imprisonment, reimbursement of the embezzled amount, discharge of duty and exclusion from the profession after clearance of some of his dues on the basis of documents available in embezzlement case of 3578250 AFNs in accordance with provisions of paragraph 4 article 391 and 393 of the Penal Code and paragraphs 1 & 2 article 398 of the mentioned code.

**Verdict dated December 01, 2018**  
**Conviction of Detection Officer of Kabul 6<sup>th</sup> Police**  
**District for the Charges of Bribery**

The staff of 705<sup>th</sup> National Directorate of Security received a report that the Detection Officer of Kabul 6<sup>th</sup> Police District has asked for 30000 AFNs bribe against forgery from one of current Herat residents. Therefore, a plan was taken for his arrest and the requested amount of money was submitted to the person. Following the receipt of money by the suspect, he was arrested with marked 30000 AFNs with the presence of a representative from the prosecution office and was introduced to justice and judicial institutions. The case was referred to Kabul Anti-Corruption Primary Court. In its judicial session dated December 01, 2018, the court sentenced the suspect to one-year and one-month imprisonment, cash fine equivalent to the bribed money and discharge of duty for the charges of taking bribe equal to the amount of 30000 AFNs in accordance with provisions of paragraph 3 article 371, paragraph 2 article 375 and paragraph 1 article 385 of the Penal Code and observing provisions of articles 213 and 215 of the mentioned court.

## **B: Report on Judicial Activities of Kabul Anti-Corruption Appellate Court**

The Kabul Anti-Corruption Appellate Court heard (7) cases of corruption from November 22, 2018 to December 21, 2018. (15) persons were trialed for the charges of misuse of official authority, bribery and forgery. (4) People were acquitted due to insufficient reasons and the remaining (11) persons were sentenced to different punishments of imprisonments as following:

- 1 month to 1 year imprisonment (8) persons
- 1 to 5 years imprisonment (3) persons
- Total cash fine made a sum of 7800 USD

**Table (1): Indicates Judicial Activities of Kabul Anti-Corruption Appellate Court in November/December 2018**

No .	Type of Case	No. of Cases	Judicial Decision							
			No. of Accused	No. of Acquittals	No. of Convictions	No. of Enforced Imprisonment				
						1 Month to 1 Year	1 - 5 Years	5-15 Years	Cash Fine	Total Cash Fine in USD
1	Forgery and Misuse of Official Authority	3	7	3	4	3	1			400
2	Bribery	3	3	1	2		2			7400
3	Embezzlement	1	5		5	5				
Total		7	15	4	11	8	3			USD 7800

In addition, the abovementioned court issued (2) judicial cases and sent them to the respective sources due to investigative gaps.

**Table (2): Indicates Judicial Rulings by Kabul Anti-Corruption Appellate Court in November/December 2018**

No	Type of Cases	No. of Cases	No. of Accused	Ruling Cause	Respective Office
				Investigative Gap	
1	Duty negligence and illegal possession of weapon	1	3	1	Prosecution Office
2	Bribery	1	1	1	Prosecution Office
Total		2	4	2	

## **2. Summary of Verdicts Issued by Kabul Anti-Corruption Appellate Court**

### **Verdict dated December 11, 2018**

#### **Conviction of One of Pul-e-Charkhi Central Prison Soldiers for the Charges of Forgery and Misuse of Official Authority**

The soldier had skillfully placed two Samsung Galaxy G7 mobile sets, 3 mobile cables, 3 pairs of headphone, one charger and two Etisalat sim cards inside his military uniform and wanted to enter block 6 of the Pul-e-Charkhi Central Prison. The suspect was searched by intelligence officers following a prior report. The above-mentioned items were found during the search. Later, a team of three personnel were assigned to search the Toyota Corolla vehicle of the mentioned soldier

(suspect). 9 different types of mobile sets, 7 batteries, 2 power banks, 2 chargers, 7 pairs of headphone, 3 chip readers and 2 cards for entrance and exit from Parking B and C were found during the search. The soldier was arrested red-handed by intelligence officers for carrying prohibited objects inside the prison and was introduced to the prosecution office. After completion of the primary investigation, the case was referred to Kabul Anti-Corruption Primary Court. In its judicial sessions dated October 07, 2018, the court sentenced the suspect to one year imprisonment for the charges of misuse of official authority in accordance with provisions of paragraph (1) article (42) of Law on Military Crimes and observing articles (213) and (214) of the Penal Code and to (30000) AFNs cash fine for the charges of using forged documents (vehicle driving permit and number plate) in accordance with provisions of paragraph (1) article (443). The court also ordered the confiscation of the mentioned items based on provisions of article (182) of the mentioned code. Since the mentioned crimes are not related to each other and there was not any unity of purpose to combine the crimes, the punishments of both crimes are applicable on the suspect in accordance with article (75) of the mentioned code.

Due to dissatisfaction of the suspect, the case was referred to Kabul Anti-Corruption Appellate Court. In its judicial session dated December 11, 2018, the court approved the primary court's decision on the forgery case in accordance with article (54) of the Law on



Organization and Jurisdiction of the Courts of Judiciary observing article (17) of the Penal Code and amended the primary court's decision on misuse of official authority and sentenced the suspect to two years imprisonment as well as discharge of duty in accordance with provisions of paragraphs (1) and (2) article (403) of the Penal Code. The court also ordered confiscation of the items. Due to lack of relevance (unity of purpose) in the mentioned crimes, the punishments of both crimes are applicable on the suspect in accordance with article (75) of the Penal Code.

## Counter Narcotics and Intoxicants

### A. Report on Judicial Activities of Kabul Counter Narcotics and Intoxicants Primary Court

#### 1. Report



Kabul Counter Narcotics and Intoxicants Primary Court handled 69 cases related to different types of drugs and issued decisions accordingly from November 22 to December 21. In relation to these cases, 101 people had been arrested for the charge of smuggling and transporting narcotics among which one person was acquitted due to lack of sufficient evidences and the other 100 were sentenced as following:

- One to five years imprisonment (72 people)
- Five to 15 years imprisonment (15 people)

- 15 to 20 years imprisonment (13 people)
- The court ordered to eliminate an amount of 814, 5976 KGs of drugs obtained from the above cases

**Table 1: Figures of judicial performance by Kabul Counter Narcotics and Intoxicants Primary Court in Nov, and Dec 2018**

N o	Types of cases	No. of cases	Quantity	Decision of Judicial Panel					
				No. of accused	No. of acquittals	No. of convicts	No. of prisoners		
							1-5 years	5-15 years	15-20 years
1	Heroin	37	124761	54		54	42	4	8
2	Opium	11	11281	21	1	20	15	1	4
3	Methampheta mine	11	1071121	11		11	6	4	1
4	Hashish	4	2361925	4		4	3	1	
5	Morphine	1	6410	1		1		1	
6	Alcoholic Beverages	1	11500	1		1	1		
7	Chemicals	1	22LT	1		1	1		
8	Henbane and Tablet K	3	14847	8		8	4	4	
Total		69	8145976	101	1	100	72	15	13

## **2. Summary of Verdicts Issued by Kabul Counter Narcotics and Intoxicants Primary Court**

### **Verdict dated November 27, 2018**

#### **Three Years Imprisonment for the Charge of Smuggling 1,953 KGs of Heroin**

Kabul Airport Security personnel doubted on a bag of a woman while checking and controlling Kabul- Delhi passengers during scanning. After checkups, it was cleared that heroin was skillfully poured in the bottles of Party Energy Drink as liquid. Then the police

arrested her with net 1,953 Kgs of heroin and introduced her to justice and judicial institutions.

The case was then referred to Kabul Counter Narcotics and Intoxicants Primary Court after completion of primary investigations. The court handled the case in judicial session held on November 27, 2018 and sentenced the accused to three years of imprisonment for the charge of smuggling 1.953 KGs of heroin based on article 302 (1.5) of the Penal Code considering articles 231, 214, and 87 of the mentioned code effective as of detention date. The court also ordered to confiscate one mobile phone along with its SIM card and the money of ticket at the time of its receipt according to article 32 of the counter narcotics and intoxicants law and to eliminate 1.953 KGs of heroin in accordance with article 19 of the mentioned law.

### **Verdict dated December 04, 2018**

#### **One Year Imprisonment for the Charge of Smuggling 623 Grams of Heroin**

Personnel of counter narcotics department in Hamid Karzai International Airport conducted a check and control between the two terminals to identify and arrest smugglers of drugs who placed drugs in their stomach. Among the passengers, a person who wanted to travel to Delhi by Spice Jet Airlines, was stopped and asked some technical questions verbally that could not provide satisfactory answers and his appearance changed during asking questions. Then, based on the article 23 (2) of the counter narcotics and intoxicants

law, he was formally sent to Police 300-Bed Hospital for further checkups that as a result 107 capsule of heroin weighing 678 grams was obtained from his stomach.

The case was then referred to Kabul Counter Narcotics and Intoxicants Primary Court after completion primary investigations and the court heard the case in a judicial session held on December 04, 2018 and unanimously sentenced the accused to one year and six months imprisonment for the charge of smuggling 623 grams of heroin based on article 302 (1.4) of the Penal Code observing articles 213 and 214 of the mentioned code effective as of detention date and ordered to confiscate a mobile phone along with its SIM card based on article 32 of the Counter Narcotics and Intoxicants Law and to eliminate the amount of 623 grams of the obtained heroin according to article 19 of the mentioned law.

## **B. Report on Judicial Activities of Kabul Counter Narcotics and Intoxicants Appellate Court**

### **1. Report**

Kabul Counter Narcotics and Intoxicants Appellate Court handled 38 cases related to different types of drugs and made decision accordingly from November 22 to December 21, 2018. The court trialed 54 people in relation to above cases for the charge of smuggling and transporting drugs amongst three people were acquitted due to lack of sufficient evidences and the other 51 people of sentenced to different punishments as following:

- One to five years imprisonment (25 people)
- Five and 15 years imprisonment (17 people)
- 15 to 20 years imprisonment (9 people)

Also, the court ordered to eliminate 7641/913 KGs of the obtained and confiscated drugs.

**Table 1: Figures of judicial performance of Kabul Counter Narcotics and Intoxicants Appellate Court in Nov, Dec 2018**

No	Type of cases	No. of cases	Quantity	Judicial Decision						
				No. of accused	No. of acquittals	No. of convicts	No. of prisoners			
							month to 1	1-5 years	5-15 years	15-20 years
1	Heroin	7	30622	8	1	7			4	3
2	Opium	8	32138	11		11		8	1	2
3	Hashish	5	148912	8		8		5	3	
4	morphine	3	12305	4		4			2	2
5	Chemicals	11	763911	15	1	14		7	5	2
6	Alcoholic Beverages	3	3804LT	7	1	6		4	2	
7	Tablet K	1	2380	1		1		1		
Total		38	7641913	54	3	51		25	17	9

### **3. Summary of Verdicts Issued by Kabul Counter Narcotics and Intoxicants Appellate Court**

**Verdict dated December 17, 2018**

**20 Years Imprisonment for the Charge of Smuggling 1,200 KGs of Morphine, 1,500 KGs of Thebaine, Nerocutin, Papaverine and 180 liters of Acetic anhydride**

Based on a notice from a confidential source stating,

“One of the residents of Landa kamboo Village of Khogiani District of Nangarhar Province was always involved in selling, purchasing, producing, processing, smuggling and transporting of drugs, in addition to having a lab for producing, and processing drugs in the mentioned village.” The security forces in association with US Special Forces using helicopters conducted an operation on the lab. As a result of the operation, 1200 KGs of Morphine, 180 liters of chemical acid, two press machines, 40 barrels, 20 basins, one generator, three batteries were obtained. The obtained items were burned due to lack of facilities to transport them after taking samples and photos with presence of the operation personnel. The owner and staff of the lab fled hearing the helicopters’ sound and the perpetrators were not arrested. The Investigation Department in coordination with counter narcotics battalion arrested the owner of the drug based on the detention and arrest warrant dated February 28, 2018 in Du Saraka area of Sorkh Road District.

The case was then referred to Kabul Counter Narcotics and Intoxicants Primary Court after completion of the primary investigation. The court heard the case in a judicial session held on April 22, 2018 and sentenced the accused to 20 years imprisonment for the charge of smuggling 1200 KGs of morphine according clause 5 paragraph 1 observing paragraph 2 of article 42 of the counter narcotics and intoxicants law and sentenced him to 10 years imprisonment for the charge of 1500 KGs of thebaine, neroctin and papaverine according to

clause 5 paragraph 1 observing paragraph 2 of article 47 of the mentioned court and to 10 years imprisonment for the charge of smuggling 180 liter acetic anhydride based on the instructions of clause 5 paragraph 1 observing paragraph 2 of article 47 of mentioned law and to five years imprisonment with the charges of possessing the mentioned drugs based on the article 309 (1) of the penal code. The court ordered application of the severest punishment of 20 years imprisonment on the accused based on the instructions of article 73 of the penal code and article 58 of the counter narcotics and intoxicants law. Also, the court issued order to confiscate the mobile phone along with its SIM cards according to article 32 of the counter narcotics and intoxicants law. It is mentionable that the drugs had already been eliminated.

The case was referred to Kabul Counter Narcotics and Intoxicants Appellate Court due to dissatisfaction the accused and the appellate court unanimously confirmed the decision of the primary court based on article 267 of the criminal procedures code and article 17 (2) of the counter narcotics and intoxicants law in a judicial session held on December 17, 2018.

### **Verdict dated December 18, 2018**

#### **Five Years Imprisonment for the Charge Smuggling 70 KGs of Hashish**

On September 1, 2018, a Mercedes Bus vehicle that was stopped near Southern Tunnel and in front of Salang HQ checkpoint due to technical problem seemed doubtful and hence it was interrogated by the checkpoint in charges. Later, the Police arrested two



people, one was a passenger and the second was the driver of the bus and were residents of Nangarhar province and the police reported the issue to Salang HQ. Later, a board of audit arrived at the incident area and checked the vehicle in presence of the driver. As a result, they discovered some Hashish placed under floor of the vehicle weighted 70 KGs.

Following completion of primary investigations, the case was referred to Counter Narcotics and Intoxicants Primary Court of Kabul province. The Court, in its judicial session dated October 28, 2018, addressed the case and sentenced the accused in case of transporting (70) KGs of Hashish to five years of imprisonment in accordance with clause (7) paragraph (1) article (305) of the penal code and respecting article (58, 213 and 214) of the mentioned code, and confiscated their two mobile sets with the SIMs according to article (32) of the Counter Narcotics and Intoxicants Law and their Mercedes model vehicle carrying the drug was also confiscated according to article (308) of penal code. The confiscated (70) kg Hashish was considered eliminated according to article (19) of Counter Narcotics and Intoxicants Law.

But the case was then referred to Kabul Counter Narcotics and Intoxicants Appellate Court due to lack of satisfaction of the accused and the appellate court unanimously confirmed the decision of the primary court based on article 267 of the Criminal Procedures Code and article 17 (2) of the counter narcotics and intoxicants law in a judicial session held on December 18, 2018.