

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES
[ISSN 2581-5369]

Volume 8 | Issue 3

2025

© 2025 International Journal of Law Management & Humanities

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of any suggestions or complaints, kindly contact support@vidhiaagaz.com.

To submit your Manuscript for Publication in the International Journal of Law Management & Humanities, kindly email your Manuscript to submission@ijlmh.com.

The Effects of Corruption on Good Governance in Afghanistan: Lessons for Fragile States

ARAMUDDIN TIMORY¹ AND SHAIWAL SATYARTHI²

ABSTRACT

This conceptual paper explores the impact of Corruption on good governance in Afghanistan, with a specific focus on the judicial sector. Furthermore, the author used secondary data sourced from international organisations such as the World Bank, United Nations (UN), United Nations Development Programme (UNDP), and United States Agency for International Development (USAID), as well as from peer-reviewed academic journals. This study aims to evaluate how Corruption affects judicial performance in Afghanistan and draw lessons from fragile and neighbouring Asian states. The findings reveal that Corruption undermines institutional trust, weakens judicial independence, discourages investment, and exacerbates social inequality. Theoretical perspectives from scholars such as Lambsdorff and Mauro emphasise the negative correlation between Corruption and economic development, highlighting its role in diminishing the quality of public service delivery. Case studies from post-conflict countries such as Sierra Leone, Liberia, Kenya, and Rwanda underscore the significance of transparent judicial appointments, strong anti-corruption enforcement, and sustained capacity building. Similarly, regional experiences from India, Pakistan, Bangladesh, Nepal, Iran, and Sri Lanka offer practical insights into judicial activism, civil society engagement, and transitional justice. Moreover, the study found the Afghan judiciary one of the most corrupt public institutions, characterised by political interference, inadequate infrastructure, and the prevalence of informal justice systems. The paper concludes that effective judicial reform in Afghanistan requires a context-sensitive, multi-stakeholder approach—combining political will, international cooperation, institutional restructuring, ethical training, and public engagement. By drawing on global best practices, Afghanistan can work toward building a transparent, independent judiciary that enhances public trust, strengthens the rule of Law, and contributes to long-term governance and stability.

Keywords: Afghanistan, Corruption, Fragile States, Good Governance, Judicial Sector

¹ Author is a Research Scholar at Faculty of Law, University of Delhi, India.

² Author is a Professor at Faculty of Law, University of Delhi, India.

I. INTRODUCTION

Corruption is an unlawful conduct committed by people or organizations holding public office or working in the private sector to break the Law and make personal gains. Corruption is the "abuse of entrusted power for private gain," according to Transparency International. Therefore, the misuse of resources and public positions for private or individual gain is Corruption. "Abuse," in this context, "abuse might occur from individuals who attempt to influence public authorities or those who hold public office (Johnston 1986). Corruption occurs in both industrialized and developing nations. Still, the shift from closed to free market economies in transitional nations has created enormous potential for rent collection and large profits, typically accompanied by a change from a well-organized corruption system to a more disorganized one (Mashal, 2011). Since Corruption poses significant challenges to the nation's political, economic, and social growth, it is a crucial state-building policy issue. The incapacity of post-war nations' government structures to uphold the rule of Law makes this issue even more severe (Mohseni, 2006). According to Edward Banfield (1975), people are naturally opportunistic. Hence, positions of trust and authority almost always incentivize dishonest behaviour. According to Fleck and Kuzmics (1985), Corruption occurs in every civilization that has attained a particular degree of complexity. According to renowned corruption expert Robert Klitgaard, Corruption predates organized human life and may even predate government itself (1988:7).

Corruption remains one of the most pervasive obstacles to good governance worldwide, particularly in fragile and post-conflict states. It undermines the effectiveness of institutions, erodes public trust, and exacerbates economic inequality, impeding social and political development. Corruption distorts decision-making processes, often resulting in the misallocation of resources and perpetuating cycles of poverty. Research has shown that Corruption significantly weakens the rule of Law, stifles economic growth, and fosters social unrest, particularly in regions with weak institutions (Mauro, 1995). In fragile states, the impact of Corruption is even more pronounced, as it often leads to a lack of accountability, the consolidation of power among elites, and the erosion of democratic processes (Lambsdorff, 2007). Drawing on lessons from post-conflict countries, such as Sierra Leone, Liberia, and Rwanda, scholars and policymakers have emphasized the importance of strengthening judicial independence and implementing merit-based appointments (Lambsdorff, 2007). The global commitment to combating Corruption is reflected in initiatives like the United Nations Convention Against Corruption (UNCAC). Yet, many states face significant challenges in curbing Corruption due to political resistance, weak

enforcement mechanisms, and a lack of resources (Singh, 2015). This research aims to examine the global effects of Corruption on governance and explore strategies from various countries to address these challenges effectively.

II. CORRUPTION IN AFGHANISTAN

Corruption is widely recognized as a significant barrier to good governance, particularly in fragile states like Afghanistan. It undermines public trust, distorts public policies, weakens institutional efficiency, and fosters impunity. In Afghanistan, Corruption within the justice system has become deeply entrenched, with judges and prosecutors often accepting bribes and political interference, further complicating judicial independence (Singh, 2015). Afghanistan has long been a victim of war, conflict, and systemic Corruption. According to Transparency International (TI) (2024), the country ranked 165th out of 180 in the 2024 Corruption Perceptions Index (CPI). In the previous year (2023), Afghanistan was ranked 162nd with a CPI score 20. TI's global ranking evaluates governments based on transparency, corruption levels, and the effectiveness of anti-corruption measures, utilizing data from sources such as the World Bank and the World Economic Forum to assess a country's capacity to combat Corruption. The report highlights that many Afghan citizens have experienced widespread Corruption in public services, particularly in the judiciary, law enforcement, and humanitarian aid distribution. Corruption has been a persistent challenge in Afghanistan, consistently placing the country among the lowest-ranked nations on the CPI. Even under previous governments, the country struggled with deep-rooted Corruption, which has remained a significant barrier to good governance, economic development, and the effective use of international aid. While sporadic improvements have occurred, systemic Corruption undermines institutional integrity and public trust (Rahmati, 2025). In addition, in previous years, Afghanistan faced a lot of Corruption. Gardizi et al. (2010), Corruption has emerged as a significant threat to the Afghan government's legitimacy, stability, rule of Law, and state-building. Afghanistan has also continuously received low scores on the World Bank's Worldwide Governance Indicators. On a scale of 0 to 100, the nation's score for corruption control was 1.91 in 2012, which hasn't improved since then. Between 2002 and 2012, the rule of law scores likewise stayed poor, if not declined. Other metrics, including political stability, voice and accountability, and government efficacy, have maintained relatively low scores. With scores increasing from 2.94 in 2002 to 11 in 2012, regulatory quality is the only area where the nation has shown some development (World Bank 2013). Afghanistan's problems with Corruption stem from several factors, including a very poor public administration, a high

rate of organized crime, the nation's reliance on foreign aid, and lax law enforcement (World Bank, 2009; Torabi, 2012).

This research aims to assess the effects of Corruption on good governance in Afghanistan, focusing on drawing lessons for other fragile states. By examining systemic Corruption within Afghanistan's political, judicial, and administrative institutions, the study seeks to understand how Corruption undermines governance, weakens institutions, and exacerbates socio-political instability. Additionally, the research aims to explore the broader implications for governance in fragile states, identifying strategies and best practices from other countries and neighbouring regions that can be applied to Afghanistan's judicial sector for future improvement. Through this analysis, the study aims to contribute to developing more effective anti-corruption frameworks and governance reforms in fragile and post-conflict contexts.

Table 1. Interpretation of Afghanistan's CPI Rank (2013–2024)

Year	Afghanistan's Rank	Total Countries	Interpretation
2013	175	177	One of the most corrupt (3rd worst).
2014	172	175	Slight improvement, but still among the worst 5.
2015	165	168	Still extremely corrupt, with slight upward movement.
2016	169	179	The rank dropped again to the bottom 10 in the world.
2017	177	180	2nd worst globally, with very high perceived Corruption.
2018	172	180	Minor improvement, but it is still in the bottom 5.
2019	173	180	Remained in the bottom 5 for Corruption.
2020	165	180	Noticeable improvement: less corrupt than before.
2021	174	180	Significant fall again, showing worsening governance.
2022	150	180	A marked improvement, possibly due to regime

change or shifts in governance structure.			
2023	162	180	Drop again, indicating rising perceived Corruption.
2024	165	180	Continued poor perception, not much change.

Source: Transparency International

Table 1 determines that between 2013 and 2024, Afghanistan's ranking in global Corruption indices reveals a persistent trend of high perceived Corruption. From 2013 to 2017, the country consistently ranked among the bottom five, indicating extremely high levels of Corruption. A slight improvement was observed between 2018 and 2020, suggesting some positive shifts, though limited. From 2021 to 2024, the rankings fluctuated, likely due to ongoing political instability, regime changes, and decreasing international engagement. The year 2022 marked a temporary peak in progress, with Afghanistan reaching its best position at 150th out of 180 countries; however, this improvement was not sustained in subsequent years, reinforcing the long-standing perception of widespread Corruption.

III. LITERATURE REVIEW

Corruption

According to Akindele (1995), Corruption is difficult to describe universally, as it lacks a consistent definition. Its interpretation varies based on a country's legal framework and regulatory guidelines. While some nations adopt a broad perspective on Corruption, others enforce a more restricted definition through legislation. From an etymological standpoint, "corruption" originates from the Greek word *corruptus*, which refers to a distortion or deviation from the norm (CLEEN Foundation, 2010). According to Otite (2000), Corruption is the perversion of honesty manifested in bribery, excessive favours, or moral decay. It happens when two or more people work together to change a society's procedures and structure. It is focused on the actions of employees that encourage dishonest circumstances. In addition, according to Khan (1996), Corruption differs from country to country. Therefore, "a perversion or change from the generally accepted rules or laws for selfish gain" is one definition. While Transparency International chose a precise and focused definition of Corruption as the abuse of given authority for private advantage, the United Nations defined Corruption as the abuse of power for personal gain (CLEEN Foundation, 2010).

Likewise, Ogundiya (2009) provided a general overview of the idea, claiming that specific actions may draw attention to Corruption. These offences were listed as extortion, bribery,

fraud, election interference, embezzlement, conflict of interest, misappropriation, and conversion of public funds for private benefit, as well as diversion, acquiring process manipulation, and financial record counterfeiting or manipulation. According to Action Aids (2008), the decent citizens of any country should refrain from engaging in corrupt practices, and Corruption has emerged as a significant challenge for any country. Nowadays, Corruption has spread to all facets of society, including the average citizen, and is no longer just a problem for politicians and administrators. Corruption has exposed recognition in the social psyche. Payoff, nepotism, and bias are social indecencies gradually spreading among the general population.

In recent years, Ajie and Wokekoro (2012) stated that some research scholars defined Corruption in various divisions, which determine the holistic approach, and Taylor (2010) described the different divisions of Corruption that consist of :

1. Political Corruption: It occurs when politicians and public decision-makers, who are entitled to formulate, establish, and implement laws on behalf of the people, are corrupt. It also takes place when policy devising and legislation are tailored to advantage politicians and legislators- as in the case of the controversial huge legislators' wages.
2. When public policies are implemented, bureaucratic Corruption takes place in public administration. Every day, residents deal with this type of Corruption at places where services are provided, including hospitals, schools, local licensing offices, police stations, and other government departments, among other places. When public sector practices become unlawful or unethical, bureaucratic Corruption takes place.
3. Electoral Corruption: This type of Corruption encompasses election tampering and other electoral errors. In addition to buying votes, disenfranchisement, stealing ballot boxes, victimizing and maiming people, mutilating election results in favour of losers, and casting ballots in places where none were cast, it also includes the promise of an office, special favours, coercion, pressure, and interference with the right to vote.
4. Bribery is the practice of offering, contributing, receiving, or requesting something of value to affect a person's decisions or actions in a position of authority. It frequently involves illegal bribes, kickbacks, and payoffs, which compromise justice and moral principles. Payoffs may entail direct payments to ensure a particular benefit or result, whereas kickbacks usually involve the return of a percentage of money in exchange for preferential treatment or contracts. Bribery is considered a serious crime in both the

public and private sectors because it biases decision-making, encourages Corruption, and undermines public confidence.

5. Fraud encompasses trickery, swindling, deceit, counterfeiting, racketeering, smuggling, and forgery.
6. Embezzlement is defined as when public servants steal resources from the government. It occurs when a state official who works for pay steals from a public institution.
7. Extortion: This is characterized by the employment of compulsion, violence, or threats to get resources.
8. Favouritism: This constitutes a technique of power abuse, indicating a markedly biased allocation of state resources.
9. Nepotism is a unique sort of favouritism in which a public officeholder chooses his/her relatives and family members. According to Ajie and Wokekoro (2012), nepotism happens when there is an illegal exemption from the enforcement of specific laws or regulations or when there is an excessive preference given in the distribution of limited resources.

Good Governance

There are numerous definitions for the term "governance." According to the World Bank (2000), governance is the process by which authority is used to manage a country's social and economic resources for development. Three applications are involved in this: "the structure of the political regime; the method by which governmental authority is used to administer a nation's economic and social resources, and the ability of the government to carry out public policies. Furthermore, Adeosun (2012) asserts that good government must be able to manage a nation's resources transparently, responsibly, and equitably while attending to the populace's demands. The necessity of acknowledging and appropriately addressing the desires of the populace is a positive feature of this viewpoint.

Additionally, Olowu and Akinola (1995) offer a few metrics for evaluating good governance. These are "managerial and organizational efficiency, accountability, legitimacy, and responsiveness to the public, transparency in decision-making, and pluralism in policy options and choices," according to Adenugba (2013). Stated that it covers matters like equity and the rule of Law, among others. According to Nwagbara (2003), good governance includes fundamental freedoms and general principles such as competence, accountability, the rule of

Law, and the absence of human rights violations.

The exercise of political, economic, legal, judicial, social, and administrative power in a way that satisfies the wants and ambitions of the populace is referred to as good governance, according to UNDP (1997). This encompasses civil society, the private sector, and the government. Making government more democratic, responsive, and accountable also entails developing policy initiatives to fortify institutions and civil society organizations.

A high degree of organizational effectiveness in policy development, particularly in the conduct of economic policy and its contribution to growth, stability, and public welfare, is implied by good governance, according to Nwagbara (2003). Additional considerations in this environment are accountability, openness, and involvement, all comparable to the UNDP report's setting.

IV. THE HISTORY OF THE JUDICIAL SYSTEM IN AFGHANISTAN

During the 1880s and 1960s, Afghanistan virtually had two separate legal systems. The fields of Law covered by the sharia courts, which were presided over by clergy, included personal, family, and criminal Law. State law matters about public servants, taxes, and commerce were handled by a different system of government courts. As state law developed, so did the state courts' writ, leading to competition as the courts fought for substantive jurisdiction. King Zahir Shah started a reform process in 1963, intending to democratize Afghanistan by limiting the role of the monarch and royal family in state matters, strengthening the elected government's authority, and creating a division of powers among the organs of government. After more than a year of discussion, Loya Jirga approved a new constitution in 1964. The new constitution substantially modified the legal system (Kamali 1985).

The formal justice system in Afghanistan has evolved under the influence of various ideologies, including Western legal thought (primarily French), moderate and radical interpretations of Islam, and Marxist principles. These influences have largely reflected the values, political ideologies, and governance structures that have shaped Afghanistan. During the 1950s and 1960s, efforts were made to modernize the justice system, establishing state law as the primary legal framework rather than shari'a. However, following the 1978 military coup, the Marxist government attempted to implement a Soviet-style judicial system, which was ultimately rejected before taking full effect. In contrast, the Mujahedin government (1992–1996) reinstated shari'a as the foundation of the legal system, a stance that was further solidified under the Taliban regime. While many of these governments used the legal system to advance political agendas, they also contributed to the diverse and complex nature of

Afghan legal traditions, elements of which could be integrated into a post-war justice system.

With the establishment of the Afghan Interim Administration in December 2001, followed by the Afghan Transitional Authority, there has been a renewed emphasis on aligning the legal system with international human rights standards. The reinstatement of the 1964 Constitution and existing laws aimed to modernize Afghan justice institutions by incorporating international legal principles (Decree on the Establishment of the Afghan Judicial Commission, 2002). Furthermore, the active involvement of the international community and the United Nations in Afghanistan's political, social, and economic reconstruction has increased the necessity of ensuring that Afghan legal frameworks comply with global human rights norms.

Reconstruction of the Legal and Corruption

The United States spearheaded a reconstruction effort by the international community shortly after the military operation Enduring Freedom. Afghanistan, ostensibly for the sake of "democratizing" the nation. However, this reconstruction has turned out to be a political-humanitarian intervention whose main goal is to intellectually back a political-economic expansion appropriate for a particular geopolitical structure. As a result, the rehabilitation process has only now provided a fresh boost toward stability to a nation plagued by widespread poverty and conflict. The framework for efforts to codify and institutionalize justice at the state level in Afghanistan has been the language of legal modernization. However, this process has not resolved the conflict between the 2004 Constitution, the laws already in effect, and the ideals acknowledged by the Afghan social fabric (Ahmed 2007). The presumptive convergence of Islamic Law and the Rule of Law has not yet been converted into a transparent judicial process, further complicating matters.

The Afghan government and the international community have recognized Corruption as a crime that arises from a lack of "public discipline" and a degradation of governmental institutions. Governmental and international discourse has become more critical of those who are corrupted and has connected Corruption to a dimension of counter-governance. Mohammad Karim Khalili, Afghanistan's vice president, stated before the 2006 London Conference that "the fight against corruption" should be one of the most pressing concerns to address. First of all, this anti-corruption discourse fails to acknowledge that the corrupt system in Afghanistan may be viewed as a form of governance. Additionally, it ignores the system's deep social dimension, which is shaped by a confluence of sociocultural elements connected to power dynamics, privilege, and responsibility, as well as trade mechanisms like reciprocity

and economic bargaining.

The idea of post-war reconstruction has recently served as an external catalyst for the fight against Corruption in nations that receive foreign "aid." Creating anti-corruption agencies (de Sousa 2010, Passas 2010) is the most apparent indication of the interconnected processes that have resulted in some nations' political, economic, and legal expansion at the expense of others³⁴ in many post-war contexts.

De Lauri (2011) stated that due to the Karzai administration's apparent Corruption (ARGO 2008), several actions have been taken to "moralize the state apparatus" (ibidem). These include the creation of the High Office of Oversight, the signing of the UN Convention against Corruption in 2004, which the Wolesi Jirga approved in August 2007, the establishment of the General Independent Administration of Anti-Corruption in 2004, the approval of a law against administrative Corruption in 2004, and the 2008 decree, which was amended in March 2010. Meanwhile, a number of civil society organizations have increased their involvement in the major battle against Corruption, and the international community has increased the amount of money and technical assistance it provides for anti-corruption initiatives (Gardizi, Hussmann, Torabi 2010). However, the "paladin anti-corruption agencies" and international agreements will not effectively address the issue of Corruption until pertinent actors recognize the intricate dynamics involved in legal modernization and the part played by the politics of centralization of justice in reinstitutionalizing Corruption.

Corruption in Afghanistan's Justice System

Historically, the formal justice system in Afghanistan was often perceived as elitist, corrupt, and inefficient, leading many citizens—especially in rural areas—to avoid engagement with state-run legal institutions (Wardak, 2002a; ICG, 2003b). Instead, they turned to traditional mechanisms of dispute resolution, such as the jirga, maraka, and shura, which provided faster and more cost-effective solutions to local conflicts despite occasionally conflicting with Afghan legal norms and international human rights standards (Wardak, 2002b).

The country's judiciary is considered the most corrupt institution (Transparency International, 2013; Integrity Watch Afghanistan, 2012). It is reported that prosecutors and judges take bribes to avoid processing cases, render decisions favouring one party, free inmates, or vanish with evidence (Chêne, 2007). Due mainly to poor pay and a lack of material and human resources, administrative Corruption is pervasive in the justice sector. Not all prosecutors and judges have the necessary and sufficient training. According to the International Crisis Group research, over 47% of judges lacked a bachelor's degree or equivalent in 2007. This also

applies to prosecutors. Only three of every eight prosecutors in some regions held a bachelor's degree (International Crisis Group, 2010). Numerous municipal actors have an excessive amount of influence over the judiciary. Judges and prosecutors have drawn attention to the difficulties they have in maintaining their independence, whether as a result of political meddling or pressure and threats from organized crime groups, warlords, and local power brokers.

The Afghan legal system gradually became more secular as a result of this trend, particularly in the fields of general civil Law, Criminal Law, and business law. As a result, state law replaced shari'a as the main foundation for the legal system. Shari'a, however, continued to be a secondary source. Article 69 of the 1964 constitution states, "the provisions of the Hanafi jurisprudence of the Shariat of Islam shall be considered as law in the area [s] where no such law exists." Although this justice system seems to have balanced contemporary legal standards and Islamic shari'a, it was administered with protracted delays, bribery, and Corruption. Many Afghans avoided interacting with state legal institutions, especially those living in remote areas (Wardak, 2002a).

Not enough Judicial Supervision

The Supreme Court has come under fire for its opaque processes for disciplining or dismissing dishonest judges. Additionally, due to logistical and financial limitations, the Court has not been able to effectively detect, investigate, and prosecute allegations of judicial misconduct, particularly outside of the capital city. Furthermore, some people wonder if the judiciary effectively supervises the Court itself and if any appropriate operational complaint mechanisms have been put in place thus far. The Supreme Court may gain from addressing these issues (Chêne, 2007).

Judicial Corruption

The pervasiveness of judicial Corruption impacts every stage of the legal process. Favours or cash are exchanged for judicial access and favourable rulings. Bribery is frequently used to determine the disposition of cases, and individuals who pay bribes or have powerful connections are freed. Defendants are allegedly asked for money by courts, and prosecutors and judges frequently take bribes in exchange for not handling cases. Detainees are regularly requested for money in exchange for their release, and evidence disappearance is not unusual. Evidence even suggested that a wealthy businessman had bought off a prosecutor to get his rivals arrested (Chêne & Hodess, 2007).

Conditions & Terms

A strategy to combat judicial Corruption must include adequate financial, material, and human resources for the judiciary. The judiciary is especially susceptible to corruption threats due to low incomes and judges' high social prestige. Many judges blame the issue of judicial Corruption on economic difficulties, including low and irregular salary payments. In addition to the funds allotted to the judiciary, a secure way to distribute salaries to the provinces must be discovered. Furthermore, court employees labour in incredibly challenging environments. Due in part to the destruction or depletion of libraries and legal collections brought on by the 25-year battle, Afghan courts lack basic amenities, including space, furnishings, and copies of legal documents. The judiciary is consequently scarcely operating in several regions of the nation (Chêne, 2007).

The Unofficial Justice System: The public, particularly in rural regions, mainly depends on informal and traditional justice processes, and the formal judicial system, like the central government, is not well-established outside of big towns. Furthermore, traditional methods of administering justice are becoming more popular in many regions as pervasive Corruption erodes the credibility of the official court system. Sharia, customary rules, and standards of conduct serve as the primary foundation for justice delivered at the local level. Therefore, the current justice system must be considered in the international community's efforts to combat judicial Corruption and strategies for developing a more standardized and accountable traditional justice system could be explored further (Chêne, 2007).

Capacity Building: Reducing judicial Corruption may be impacted by attending to the fundamental requirements and priorities of the legal system. Like many other Afghan public institutions, the judiciary lacks the organizational and human resources necessary to implement anti-corruption measures and regulations. There is no comprehensive record of the nation's laws, very limited physical infrastructure, and a dearth of qualified attorneys. Ideally, efforts to combat judicial Corruption should be complemented by other initiatives that increase the courts' capacity, raise salaries, upgrade infrastructure, reach more provinces, and improve the quality and coordination of training—the latter of which is acknowledged by all parties involved as a crucial element of judicial reform (Chêne, 2007).

Singh (2015) conducted a study on the Afghan justice system, collecting data from 70 respondents in Kabul province. The research focused on legal pluralism and a political-economic approach to examine the shortcomings, causes, and consequences of Corruption within the Afghan judiciary. The study identified several key issues, including low salaries leading to bribery, political and criminal interference in the judicial system, lack of meritocracy resulting in poorly qualified judges and prosecutors, and inadequate funding,

which weakens case tracking and contributes to human rights violations in rural areas. Additionally, the research incorporated sociological perspectives, advocating for a non-Western understanding of Corruption that emphasizes religion, morality, and ethical values as potential solutions to address judicial Corruption in Afghanistan. One of the main goals of the international community, as represented by nongovernmental organizations, international agencies, and foreign governments, is to eradicate Corruption from the legal system. According to them, systemic Corruption appears to have the most significant impact on the Court (ARGO 2008).

Corruption has contributed to the nation's impunity. One of the primary issues is the lax enforcement of the Law, which permits politicians, businesses, and public officials to continue engaging in Corruption without facing consequences.

V. EFFECT OF CORRUPTION ON GOOD GOVERNANCE, PARTICULARLY IN THE JUDICIAL SECTOR

According to Lambsdorff, Corruption will reduce the incentive to invest in a corrupt nation and lead to social inequality. Corruption will put people experiencing poverty in a position where they cannot demand justice to maintain their power. Wealthy people are answerable to the people. Additionally, according to Mauro, Corruption hinders economic progress by lowering investment incentives and causing poverty through convoluted and inefficient governmental processes that provide opportunities for rent-seeking. According to Mauro, Corruption has a negative relationship with economic growth. It results in subpar institutional performance and subpar public or private services because public officeholders are motivated by rent-seeking.

Due to the complicated bureaucratic procedures and limited commercial facilities in highly corrupt nations, investors may choose not to invest there, lowering domestic and foreign direct investment (FDI) (Mauro, 1995, p.682). According to the World Bank (WB), over time, bribery expectations may skew the quantity and kinds of contracts put up to bid, the process by which contracts are awarded, and the efficiency or speed with which public officials do their tasks when bribes are absent. Consequently, Corruption significantly challenges the nation's economic progress and advancement.

The following

Lessons from the Fragile States

Fragile states worldwide provide critical lessons for Afghanistan in addressing the effects of

Corruption on good governance, especially within the judicial sector. These lessons highlight the necessity of structural reforms, societal engagement, and international cooperation to build a judiciary that supports integrity, fairness, and the rule of Law.

Strengthening Judicial Independence

A key lesson from fragile states is the urgent need to ensure judicial independence. Political interference in the judiciary weakened public trust and prolonged instability in many post-conflict societies, such as Sierra Leone and Liberia (Andrews, 2013). Establishing transparent appointment mechanisms based on merit rather than political connections is essential. Judicial councils free from executive control have proven effective in promoting impartiality (International IDEA, 2021).

Enhancing Transparency and Accountability

After its 2010 constitutional reforms, fragile states like Kenya showed that enhancing transparency in judicial processes, such as publishing court decisions and allowing open trials, can significantly reduce Corruption (Gathii, 2016). Afghanistan must adopt practices that make judicial decisions publicly accessible and introduce regular audits and performance evaluations for judges and prosecutors.

Building Capacity and Professionalism

In fragile contexts, weak institutional capacity often exacerbates Corruption. Experience from Rwanda's post-genocide recovery highlights the role of continuous professional training and ethical education in strengthening judicial systems (Clark, 2010). Afghanistan should invest in building its judiciary's technical skills, ethics, and independence through national training programs and partnerships with international legal organizations.

Enforcing Strong Anti-Corruption Laws

Many fragile states have found that the mere existence of laws is insufficient without enforcement. In Bosnia and Herzegovina, for instance, strong anti-corruption laws were undermined by weak political will (USAID, 2017). Afghanistan must establish clear laws against judicial Corruption and ensure that violations are consistently and impartially punished, regardless of political affiliation.

Engaging Civil Society and Media

Civil society organizations (CSOs) and independent media have played crucial roles in exposing judicial Corruption in fragile states like Nigeria and South Sudan (Transparency International, 2020). Afghanistan can learn from these experiences by empowering CSOs to

monitor court proceedings, advocate for reform, and protect whistleblowers who expose wrongdoing.

Promoting Public Trust Through Access to Justice

In fragile environments, public trust is often eroded by the inaccessibility and inefficiency of courts. Timor-Leste demonstrated that expanding community-based legal aid and mobile courts can help restore confidence in the judiciary (Strohmeyer, 2001). Afghanistan should prioritize easy access to legal services, especially in rural areas, and work to eliminate informal parallel systems where Corruption often thrives.

Leveraging International Assistance and Best Practices

International cooperation has been critical in judicial reform efforts in countries like Kosovo and East Timor (UNDP, 2011). Afghanistan must actively seek technical assistance, best practices, and financial support from international organizations while adapting reforms to local socio-political realities to avoid external dependency.

Recognizing the Role of Customary and Informal Justice

Fragile states often have strong traditional justice systems. In Somalia, informal justice systems were pivotal when formal institutions collapsed (Harper, 2012). Afghanistan must work carefully with traditional structures like jirgas and shuras, ensuring they operate under regulated frameworks to minimise corruption risks while maintaining cultural legitimacy.

Additional Lessons from Neighbouring Asian Countries

Afghanistan shares historical, cultural, and regional similarities with its Asian neighbours. Learning from their experiences in judicial reforms and anti-corruption strategies can offer more practical lessons for improving good governance.

India: Judicial Activism and Public Interest Litigation (PIL)

India's judiciary, particularly through Public Interest Litigations (PILs), has significantly promoted accountability and good governance (Bhushan, 2004). PILs allowed citizens and NGOs to approach courts to address Corruption and maladministration directly.

Lesson: Afghanistan can promote mechanisms that allow citizens easier access to courts to challenge Corruption and human rights violations.

Pakistan: Judicial Independence and Challenges of Military Influence:

Pakistan's judiciary has struggled with political and military interference, but key moments like the Lawyers' Movement (2007–2009) demonstrated the power of public mobilization for

judicial independence (International Crisis Group, 2009). Lesson: Building coalitions between civil society, lawyers, and media is essential to resist political pressures and promote an independent judiciary.

Bangladesh: Establishment of Specialised Anti-Corruption Courts

Bangladesh created separate Anti-Corruption Courts to fast-track corruption cases (Transparency International Bangladesh, 2015). While results have been mixed, specialized courts have improved the speed of judicial processes for corruption cases.

Lesson: Afghanistan could benefit from establishing specialized courts focused solely on Corruption and governance-related crimes.

Nepal: Post-Conflict Judicial Reforms

After its civil war, Nepal faced a deeply politicized judiciary. International assistance focused on rebuilding legal institutions and enhancing the accountability of judges (UNDP Nepal, 2010).

Lesson: Afghanistan should prioritize judicial vetting mechanisms — reviewing judges' backgrounds and dismissing corrupt officials — to restore public trust after periods of conflict.

Iran: Politicization and the Need for Independent Oversight

Iran's judiciary has often been criticized for political bias and lack of transparency (Freedom House, 2020). Efforts to address Corruption have frequently been selective and politically motivated.

Lesson: Afghanistan must avoid selective justice; anti-corruption efforts should be impartial and applied equally to all actors, regardless of political affiliation.

Sri Lanka: Judicial Reforms after Civil Conflict

After decades of conflict, Sri Lanka embarked on judicial reforms to rebuild trust and strengthen human rights protection mechanisms (International Center for Transitional Justice, 2015).

Lesson: Afghanistan should consider transitional justice approaches — such as truth commissions or restorative justice programs — alongside formal judicial reforms to address past abuses and promote healing.

VI. CONCLUSION

Corruption in Afghanistan's justice system is widespread and deeply entrenched, causing

severe public distrust, especially in rural areas where traditional mechanisms like jirga, maraka, and shura dominate dispute resolution. The judiciary is perceived as the most corrupt institution, with frequent bribery, poor qualifications, political interference, pressure from warlords, and inadequate salaries undermining judicial independence. The Supreme Court struggles to discipline corrupt judges beyond Kabul, further entrenching informal justice systems. Reform efforts must prioritize capacity building, infrastructure development, merit-based recruitment, and ethical training. According to Singh (2015), political influence, chronic underfunding, and a lack of ethical foundations are key corruption drivers, highlighting the need for a sociological approach based on morality.

Lessons from fragile states underscore Corruption undermining governance by discouraging investment, worsening inequality, and weakening institutions (Lambsdorff; Mauro). Post-conflict experiences from Sierra Leone and Liberia stress the importance of judicial independence through transparent appointments. Kenya's judicial transparency efforts, Rwanda's ethical training, Bosnia's enforcement challenges, Nigeria's civil society engagement, and Timor-Leste's mobile courts offer valuable models. Following Somalia's approach, Afghanistan should regulate traditional justice systems to preserve cultural legitimacy while minimising corruption risks.

Neighbouring countries offer additional insights. India's Public Interest Litigation (PIL) promotes judicial activism; Pakistan's Lawyers' Movement highlights civil society's role; Bangladesh's anti-corruption courts show the need for specialized frameworks; Nepal's vetting of judicial personnel rebuilds trust. Conversely, Iran's experience warns against selective justice, while Sri Lanka demonstrates that truth and reconciliation must complement legal reforms.

Corruption hinders Afghanistan's good governance, public trust, and democratic development. However, the examples of India, Pakistan, Bangladesh, Nepal, Iran, and Sri Lanka prove that progress is achievable with judicial independence, strong civil society involvement, specialized anti-corruption bodies, impartial proceedings, and transitional justice.

Afghanistan must adapt these lessons to its unique context. Strong political will, public engagement, international cooperation, and sustained judicial reforms are essential. Despite significant challenges, experiences from other fragile states show that coordinated efforts can build a transparent, independent judiciary that fosters accountability, strengthens the rule of Law, and contributes to long-term peace, justice, and stability.

VII. REFERENCES

1. Akindele, S.T. (1995), "Corruption: An Analytical Focus on the Problems of its Conceptualization", *Psychologia*, Ife
2. Ajie, H.A., Wokekoro, O.E. (2012), "The Impact of Corruption on Sustainable Economic Growth and Development in Nigeria", *International Journal of Economic Development Research and Investment*, Vol. 3 No. 1, pp. 40-46
3. ACTIONAID, (2008), "Strategies for Winning the Anti-Corruption War in Nigeria", available at www.actionaid.org/.../actionaid/winning_anti-corruption_war_... (accessed on 23 July 2014).
4. Andrews, M. (2013). *The Limits of Institutional Reform in Development: Changing Rules for Realistic Solutions*. Cambridge University Press.
5. Ahmed, F., (2007), "Afghanistan's Reconstruction, Five years Later: Narratives of Progress, Marginalized Realities, and the Politics of Law in a Transitional Islamic Republic", *Gonzaga Journal of International Law*, 10: 269-309.
6. ARGO, (2008), "Afghanistan: La necessità di un cambiamento di strategia", *Osservatorio sull'Asia minore, centrale e meridionale*, March 2008, Report 4.
7. Afghan scholar M. Jamil Hanifi spoke about an "American neocolonialism in the Middle East and Central Asia" (2004: 296).
8. Banfield, Edward C. 1975. "Corruption as a Feature of Governmental Organization." *Journal of Law and Economics* 18: 587-605.
9. Chêne, M., 2007. *Corruption and Decentralization in Afghanistan*. U4 Helpdesk Answer. <http://www.u4.no/publications/corruption-anddecentralisation-in-afghanistan/>
10. Chene, M., & Hodess, R. (2007). *Tackling Judicial Corruption in Afghanistan*. U4 Helpdesk, Transparency International, 12.
11. Clark, P. (2010). *The Gacaca Courts, Post-Genocide Justice and Reconciliation in Rwanda: Justice without Lawyers*. Cambridge University Press.
12. CLEEN Foundation, (2010), "Corruption and Governance Challenges", available at www.cleen.org/Corruption%20and%20Governance%20Challenges%20i... (accessed on 27 July, 2014)
13. De Lauri, A. (2011). *Afghanistan: Corruption and injustice in the judicial system*. NAVEIÑ REET: *Nordic Journal of Law and Social Research*, (2), 47-62.

14. Fleck, C., and Helmut Kuzmics (eds). 1985. *Korruption: Zur Soziologie nicht immer abweichenden Verhalten*
15. Gardizi, M., Hussmann, K., Torabi, Y., 2010, "Corrupting the State or State-Crafted Corruption?", Afghanistan Research Evaluation Unit, Kabul
16. Gathii, J. T. (2016). Judicial Independence and the Rule of Law in Africa. *Duke Journal of Comparative & International Law*, 26(2), 399–415.
17. Harper, M. (2012). *Getting Somalia Wrong? Faith, War and Hope in a Shattered State*. Zed Books.
18. International Center for Transitional Justice. (2015). *Sri Lanka: Judicial Reform and Transitional Justice*.
19. International IDEA. (2021). *Judicial Independence in the Context of Fragile States*.
20. International Crisis Group. (2009). *Reforming Pakistan's Judiciary*.
21. International Crisis Group, 2010. *Reforming Afghanistan's Broken Judiciary*. Crisis Group Asia Report no. 195.
22. Johnston, M 1986, 'the Political Consequences of Corruption: A Reassessment', *Comparative Politics*, Vol. 18, No. 4, pp. 459-477.
23. Khan, M.H. (1996), "A Typology of Corrupt Transactions in Developing Countries", *IDS Bulletin*, Vol. 27 No. 2 pp. 12–21.
24. Lambsdorff, J. G. (2007). *The Institutional Economics of Corruption and Reform: Theory, Evidence, and Policy*. Cambridge University Press.
25. Mashal, A 2011, 'corruption and resources allocation distortion for "ESCWA" countries,' *International Journal of Economics and Management Sciences*, Vol. 1, No. 4, pp. 71-83
26. Mauro, P. (1995). Corruption and Growth. *Quarterly Journal of Economics*, 110(3), 681–712.
27. Ogundiya, S.I. (2009), "Corruption: The Bane of Democratic Stability in Nigeria", *Current Research Journal of Social Sciences*, Vol. 2 No. 4, pp. 233-241.
28. Passas, N., 2010, "Anti-corruption Agencies and the Need for Strategic Approaches", *Journal of Crime, Law and Social Change*, Vol. 53: 1-3.
29. Rose-Ackerman, S & Paflika, B.J. 2016, *Corruption and Government*, 2nd edition, Cambridge University Press, New York.

30. Singh, D. (2015). Explaining varieties of Corruption in the Afghan Justice Sector. *Journal of Intervention and Statebuilding*, 9(2), 231-255.
31. Tanzi, V 1998, 'Corruption around the world: Causes, Consequences, Scope and Cures', working paper of International Monetary Fund, vol.45, No.4.
32. Transparency International, 2012. Corruption Perceptions Index. <http://cpi.transparency.org/cpi2012/results>
33. Taylor, T. (2010), "Corruption and Liberation: The Experience of Nigeria", *Decaritas Journal of Management and Social Sciences*, Vol. 2 No. 3, pp. 1-9
34. Transparency International Bangladesh. (2015). Effectiveness of Anti-Corruption Courts in Bangladesh.
35. Transparency International. (2020). Global Corruption Report: Corruption and the Judiciary.
36. Transparency International, 2013. Global Corruption Barometer. www.transparency.org/gcb
37. UNDP, (1997), "Governance for Sustainable Human Development", United Nations Development Programme, New York.
38. USAID, 2009, Assessment of Corruption in Afghanistan, task order number 2007-012 Checchi and Company Consulting, Wazir Akbar Khan, Kabul, Afghanistan.
39. USAID. (2017). Anti-Corruption Strategy for Fragile States: Lessons from Bosnia and Herzegovina.
40. UNDP. (2011). Strengthening the Rule of Law in Crisis-Affected and Fragile Situations. United Nations Development Programme.
41. World Bank, (2000), "Can Africa Claim the 21st Century", World Bank Report, available at <http://www.worldbank.org/wbr/governance>, (accessed on 30 August 2014).
42. World Bank, 2013. Afghanistan Public Financial Management and Accountability Assessment (PEFA). The World Bank Group.
