

Prominences and challenges of imprisonment and juvenile detention alternatives in the penal code of Afghanistan

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Abstract

Afghanistan penal code is one of the most updated criminal laws in the region which has identified various cases and various vital cases of today's society as crime, there is a great proportionality between crime and punishment and suitable solutions are determined for implementing the law. Among these, imprisonment and juvenile detention alternatives is one of the needs of today's society. Equal punishment for small crimes is an important and up-to date issue in the penal law which has been imposed considering the time needs, solving social problems, individual and national economic for rescuing small criminals from adversity and better training or disciplining of prisoners.

The alternative issue of juvenile detention and imprisonment which has taken ten articles of Afghanistan penal code has numerous prominences, but at the moment, the government will encounter challenges when implementing this portion of penal code. The challenges include lack of entire electronic control coverage, corruption, taking bribe, utilizing from criminals for personal services instead of public services, and lack of overall security. The mentioned challenges are not the problem of Afghanistan penal code but is needy of strengthening government for implementing this portion of law.

Keywords: Afghanistan penal code, imprisonment and juvenile detention alternatives, prominence, challenge

1. Introduction: Preface

Afghanistan is an indigent, undeveloped and war-torn country. In this situation it is natural that the illiterate people constitutes the majority of the population. As a result of indigence, Deprivation, continuous tribal, part and regional wars, the intervention of the world super-powers and Afghanistan neighbors that have paved the way for armed battles in this country, and other disarrays people have left apart from education and the opportunity of intellectual growth which involves cultural and behavioral growth has highly fallen. The number of people who have found the opportunity of succeeding into universities and educational and scholastic institutions is very low and among them there are people who don't know that are apart from the study and investigation of social situation and don't know about the consequences of social norm-breaking, discrepancy, combat and schism.

As a result of terrorist groups' existence and inability of government in maintaining overall security, crime is increasing. People in different corners of Afghanistan including the capital involves in illegal issues like combats, quarrels, robberies, murders and kidnapping. And these extend the crime circle. Although there are different crime motivations among the people, in some cases, they are not intense and dangerous and the law can be implemented with a sentence and a little punishment. Because of this, the penal code of Afghanistan has considered the alternatives of juvenile detention and imprisonment for having appropriate punishment for the criminals.

1.1 Research Goal

evaluation of advantages and disadvantages of juvenile detention and imprisonment in the portion of penal code in Afghanistan from the penal, economic, social, and cultural dimension and identifying challenges when implementing this portion.

1.2 Research Hypothesis

Afghanistan government by adding juvenile detention and imprisonment portion expects to remove high costs of many prisoners on the government who have done small crimes and to benefit for the better training of criminals and to keep them away from the negative effects of prisons and detention centers. Also, and it paves the way for the better interaction of the criminals with the society and country's economy and shifts this interaction into a productive way. This research is conducted with this assumption that will this expectation turn into reality? And this research evaluates the prominences and challenges of imprisonment and juvenile detention alternatives in the penal code of Afghanistan and its result will be shared with public.

1.3 Research questions

1. Are the imprisonment and juvenile detention alternatives implementable in the current situation of Afghanistan?
2. What are the benefits of imprisonment and juvenile detention alternatives rather than imprisonment and juvenile detention?
3. What are the prominences of implementing this portion of law?
4. What challenges exist against implementing this portion of law?

1.4 Data gathering method

The data in this research is gathered through analyzing the demeanor of people who are somehow involved with prison, scientific evaluation of imprisonment and juvenile detention alternatives portion in the penal code, evaluation of appendix number 2 of penal executive law on implementing imprisonment and juvenile detention, analyzing economic and security situation of society and government.

1.5 Analyzing method

The gathered data will be evaluated with a critical, analytical, and descriptive view.

2. Need and Record of Topic

2.1 Need of topic

The penal code of Afghanistan is one of the best criminal laws in the region. This penal code has identified cases as crime and sentence for criminals which have not been factored in by our neighbor countries. Therefore, the penal code of Afghanistan has step forwarded a high and sturdy step on penal executions in the region. This step needs to be introduced, evaluated and to identify its susceptibility in order to enlighten a comprehensive research. Since this written work is not capable of argument on all items of penal code, here it will only argue imprisonment and juvenile detention.

The penal code which is based on seventh article of Afghanistan constitution has covered united nation's observation charter, intergovernmental treaties, international pacts which Afghanistan have joined with, and Afghanistan human rights. The second item of this article obliges the government to avert any terrorist acts, cultivation and growth of narcotics and toxic production (Afghanistan constitution, solar 1382: 7th article). The 27th article of this law forces the government to implement and execute the criminal law on prosecuting and apprehending the criminals. "No action is counted as crime but by legal verdict which has been validated before its commitment. No one can be prosecuted, apprehended or detained but according to law's verdict. No one can be punished but by verdict of authorized court and according to legal verdicts which have been validated before the accused act commitment" (Afghanistan constitution, solar 1382: 27th article). Also, in enactment of Afghanistan penal code, the verdicts of articles 22nd, 23rd, 24th, 25th, 26th, 29th, 56th, and 59th, of Afghanistan Islamic republic constitution have been observed. (Afghanistan penal code, solar 1396: article 1).

There are a lot of needs including Afghanistan government commitment on reviewing laws of this country, an old criminal law of Afghanistan which has been inherited since 1355 and was not responsive of daily needs in the penal portion, scatteration of law that only fifteen independent laws existed in the penal portion and fifty other laws contained penal verdicts and also the overall verdict of justice prosecution existed in the other seventeen laws. In addition the previous law was not compatible with the international documents and treaties. Was not able to observe legal principles and was not responsive for the international and regional organized crimes. (Allama solar 1393: p.155) and led to enactment of Afghanistan penal code.

Afghanistan penal code contains exclusive traits which can be divided in two parts- in terms of content and in terms of structure. From the structural traits we can mention-cohesive division, observing writing principles, using academic and simple language without vague words, consistency and eschewing from contradiction. From the content traits we can mention- observing criminal principles, considering justice, being responsive to new contemporary needs of society in a variety of penal portions, identifying crimes according to international documents and treaties. Overall a motion towards a united and integrated criminal politics is one of the most vital trait of this penal

code. (Rasuli 1-5 Thaur 1398: penal code description, penal code description workshop by Asia Foundation).

Imprisonment and juvenile detention alternatives portion is a vital need of today's society which has luckily been considered in the penal code of Afghanistan and this portion can take a heavy responsibility from the government in the penal portion and paves the way for the better implementation of penal law.

2.2 History of topic

The penal law of the country which was enacted in solar 1355 and identified many acts as crime in 523 articles and designated punishments for them and was counted as one of the bests in its time, however there were some defects and mistakes in its articles. (Motasem, solar 1387: p.211) after pass of time, because of time demand and passing consecutive years and many changes which the civilized humanity witnessed them have also affected criminal and penal scopes. Also, the mentioned penal law of Afghanistan was not able to afford the penal needs of the country. New crimes appeared which was not anticipated in the former penal law, new ways should have been factored in which was not involved in the penal law of Afghanistan. (Kosha, solar 1393: p.9) because of these reasons and other profuse needs, the penal code of Afghanistan enacted and put for use.

Penal code project was proposed by ministry of justice, supreme court, general attorney, ministry of interior, and national security for the presidency and was authenticated on solar 1398 / 3 / 8 by the presidency. On solar 1391 / 1 / 13 this project started its activity by formation of the law reform group involving domestic and international associations. Finally, after four years and six months of effective activity it was submitted to ministry of justice on solar 1395 / 2 / 12 ^[1].

after the ministry of justice received the project, it created the drafting and proofreading committee of penal code by the verdict of the presidency on solar 1395 / 1 / 18 which after approximately six months activity of the committee and after drafting and proofreading, it was submitted to the presidency on solar 1395 / 7 / 6. The Islamic cabinet of Afghanistan asked for ministries opinion through an enactment. And after receiving comments the penal code of Afghanistan enacted in a cabinet meeting on solar 1395 / 12 / 12. (Asia foundation solar 1398: 1)

The mentioned code was indorsed by president legislative decree no. 256 on 1396 / 12 / 14. And it was published on solar 1393 / 2 / 25 in a formal magazine- serial no. 1260 page 796 and it was validated from solar 1396 / 11 / 25.

This code contains 916 articles. As it was mentioned in the above section that it does not only contain criminal law of 1355 but other multiple criminal laws which were separately settled in the laws and the penal articles which were utilized in other laws of Afghanistan in addition to new verdicts concerned with new crimes like crimes which avert implementing justice, business and fiscal crimes, cyber-

¹ Afghanistan penal code which is based on 7th and 27th articles of Afghanistan Islamic republic constitution and observing verdicts of 22nd, 23rd, 24th, 25th, 26th, 29th, 56th, and 59th articles of Afghanistan Islamic republic constitution with utilizing of penal laws of countries like: Malaysia, Germany, France, Iran, Egypt, Turkey, and Maldives and enacted penal law of 1355 has been enacted and is one of the modern penal laws in the region and it has identified crimes by utilizing from update criminal knowledge like cyber Environment

crimes, environmental crimes and crimes that involved Rome statue which is a great achievement in this regard.

The new added option- imprisonment and juvenile detention in the judicial system of Afghanistan has dedicated 10 articles- article 148 to article 157 from page 150 to page 154 to its self in the first portion. It is in the third part of penal code second chapter. This portion contains an appendix. The appendix is named appendix no. 2 of penal execution law on implementation of juvenile detention and imprisonment alternatives. This appendix was published by decree 267 with 1286 serial no. on solar 1396 / 12 / 13.

The mentioned appendix has explained ways and methods for implementing alternatives of juvenile detention and imprisonment. Because the alternatives of juvenile detention and imprisonment is a new topic which has been included in the law of country and some of the methods should be factored in for its implementation which by indorsing it this important issue has been executed. Juvenile detention and imprisonment alternative portion has been written and enacted based on the following topics. "managing affairs concerned with method of implementing and validating punishment of imprisonment and juvenile detention alternatives, assigning monitoring situation from implementation of imprisonment and juvenile detention alternatives, averting from crowd of prisoners and detained juveniles in prisons and juvenile detention center, reduction of prison and juvenile detention center expenses, preventing from negative effects of juvenile detention and imprisonment on verdicts and their relatives and society, paving a better way for reform, reforming and returning verdicts of imprisonment and juvenile detention to their family, a peaceful life and society (appendix no. 2, penal execution law on implementation of imprisonment and juvenile detention alternatives, 1396:article 1).

3. Imprisonment, juvenile detention and their alternatives

3.1 imprisonment

Imprisonment means to detain, to apprehend, to arrest, or to put someone in prison. (Dehkhoda, no date, regarding imprisonment word) The one who is imprisoned is called prisoner. The place which they are kept and imprisoned in is called prison. And their detaining action is called imprisonment. From law view, "imprisonment is imprisoning the convict by the court verdict in one of the prisons which is dedicated by the government for this purpose". (penal code of Afghanistan, solar 1396: article 145) according to this law there are 5 kinds of imprisonment: short imprisonment -3 months to 1 year, medium imprisonment- more than 1 year up to 5 years, long imprisonment- more than 5 years up to 16 years, no. 2 length imprisonment-more than 16 years up to 30 years, no. 1 length imprisonment-more than 20 years up to 30 years. (Afghanistan penal code, solar 1396: article 147)

3.2 juvenile detention

Juvenile detention refers to prohibit, to forbid and to separate two things. (Dehkhoda, no date, regarding juvenile detention alternative word) The sentence of a juvenile who has committed a crime and spends the sentence duration in a juvenile detention center, at home or at any other place is called juvenile detention.

Juvenile detention from the view of law is a freedom threat of convict juvenile in the detention and reform centers, and

detention at home refers to detain the juvenile at home, private place or public place or in one of the allocated organizations of social services for a specific duration. (Afghanistan independent human rights commission, solar 1394: 65, law of juvenile crimes monitoring, article 4 section 1-2)

3.3 imprisonment and juvenile detention alternatives

Utilizing the punishment of imprisonment and juvenile detention alternatives is one of the most important achievements of Afghanistan penal code which got practical after indorsing by the president of Afghanistan. Using from these regulations is for those criminals who don't have criminal history and have been sentenced of crimes for less than five years. If anyone has committed one of the different crimes against the interior or foreign security, they cannot take benefit of the punishment of imprisonment and juvenile detention alternatives.

The alternatives of imprisonment and juvenile detention is a solution which has been brought in the penal code of Afghanistan and prevents from gathering criminals in the prisons and in the governmental juvenile detention centers.

The alternatives of imprisonment and juvenile detention is a punishment which is sentenced by court as conditional release instead of imprisonment. (Appendix no.2 Afghanistan penal execution law, solar 1396: article 2 section 1). The punishment of imprisonment and juvenile detention alternatives is determined considering different issues like: kind of crime, personality of perpetrator, numbers of crime commitment, situation of the person who is affected by crime, the consequences of crime commitment and other secret aspects of crime. Since imprisonment and juvenile detention imposes many damages to prisoners, detained juveniles, their families and society, the criminal law of 1355(solar date) of Afghanistan which was enacted on centralization of imprisonment, gave its place to penal code of Afghanistan. The former criminal law of the country was very centralized on imprisonment that even it had anticipated imprisonment punishment obscenity offenses. (Criminal law of Afghanistan, solar 1355: articles 351 and 352)

With providing this option, reduction of criminal population in prisons by utilizing from alternatives of imprisonment and juvenile detention, reduction of severe damages of prisons to people, families of prisoners and society and need of taking measure in different judicial processes have been considered.

It is mentionable that imprisonment is not beneficial for any country specifically for an indigent country like Afghanistan. Developed countries with increase of prisoners number, heavy expenses of prisons, rise of crimes inside the prisons have derived that criminals should not be imprisoned in every condition because imprisoning the criminal does not only prohibit criminal from committing crime but it also reaches abundant damages to the imprisoned criminal. Imprisonment and juvenile detention has many negative influences which will be alluded to some of them in below:

1. Imposing a high cost on government budget

We all know that Afghanistan is an indigent country and at the same time there are many loads like education and treatment of the nation's people as the responsibility of the government which takes a heavy cost. If Prisoners and detained juveniles are detained for long time in prisons, it

will impose heavy expenses on the national budget which should be spent for the construction of the country. On the other hand, Prisoners and detained juveniles who can be income source for the country people and nation will turn to consumer and useless citizens of the government and this will bilaterally harm the government and the people. (Human rights independent commission, solar 1394: law of prisons and detention centers, articles 12, 24 – 28).

Predicting a portion by the name of alternatives of imprisonment and juvenile detention in these cases is beneficial to the people and government and is an appropriate solution for reducing crime in the country.

2. The unsound environment of prison and detention center turns them into professional Criminals

If we pay attention to the prisons and detention centers of Afghanistan, we can find out that there is no standard and possibilities there. In these spaces, the criminals besides not being reformed, will be led to many offenses like: sexual, addiction, misdemeanor and other crimes.

The one who is imprisoned or detained in a juvenile detention center, as a result of mental stress owing to their condemnation, remoteness from families and friends, separating from society, encountering unsound people during imprisonment and getting used to their habits that can change the individual to a very professional and an obsessive person who will look for damaging others, and breaking the law afterwards. These people think of themselves as victims of imprisonment and don't have a sound place among the society. As it is proved by different countries, these kinds of people try to break the common law of nation and to harm many people with their mischief. Since punishment brings two types of shame for people-shame that excludes and separates the individual from society, and shame that assimilates the criminal with the society and people. Imprisonment and juvenile detention leads to the shame that excludes the criminal from the people and society, but the second type, the alternatives of imprisonment and juvenile detention leads to assimilating shame or shame that assimilates the criminal with the society and the people. (Asia foundation, solar 1398: penal code description workshop presentation, p.21)

Mortifying the verdict without excluding them from the society's membership leads to better consequences, like they will not join terrorist groups and other criminal bands and will still feel responsible to their society and people.

3. Creating economic problems to criminal family

Some of the convicts are the only breadwinner and warden of their family. In this case with their imprisonment, we will obsess both- the convict and their family against the government. In the future their children will turn to dissociable, obsessive, and unsound people of the society which will lead to destructive effects on the society. In addition, when some is apart from their home, they can't afford their family's economic affairs. In this situation, we have many times witnessed that criminals commit crime again after release because of financial and economic problems. Also when the breadwinner of a family is in the prison, the members of the family will commit any crime to provide their livelihood affairs in the absence of their breadwinner.

Imprisonment punishment is in no way appropriate for those who have committed small violations. Because besides adding a heavy load on the society, it triggers other negative effects like: moral deviations, social abnormalcy, divorce

and other social problems.

4. Rise of country's economy through work and social services instead of imprisonment and juvenile detention

People who are sentenced for less than five years prison are not hazardous criminals from the law view and do not endanger the safety of society (Afghanistan penal code, solar 1393: article 147) therefore, instead of imprisoning these people they should be asked for social works and services to create an income for the government and people by this way. The convict person is also in a better mental state rather than imprisonment state and tries to do the assigned duties in the best manner ^[2].

5. Sound training of people:

Possibly some of them because of a misunderstanding from law or lack of well-advised education, weakness of socialization with society and family commit crimes, and during the trial and the complaint of the loser person they infer to their fault and problems and look up for the compensation of their fault. The alternatives of imprisonment and juvenile detention is the only suitable option for these people which can pave the way for rejoining them with the society and to prohibit excluding them from the society. Otherwise, they will obsessively use all their power to fight against common interests and impose any damage to the society at any feasible time. (Asia foundation, solar 1398: penal code description workshop presentation, P.26-27).

6. Creation of social and family problems

Till a person has not gone to prison, he/she owns a special social status among family and the society. Considering the country's situation it has been experienced that when someone enters the prison, the prisoner and their family loses their social status and in many situations, the relatives and children of the criminal suffers many social and economic harms in this regard. In this situation, the alternatives of imprisonment and juvenile detention are executed in a way that does not disorder peoples' normal life. In addition to living like other people in the society they sustain their assigned punishment and find themselves in the society and are not excluded from the society.

7. Being able to return

If the criminal does not act according to their commitment, again the imprisonment punishment will be practiced for them. (Appendix no. 2, law of Afghanistan penal execution on implementation of imprisonment and juvenile detention alternatives, solar 1396: article 50). Imprisonment and juvenile detention alternatives is the punishment which limits freedom and rights and involves reform traits and are implementable on the criminal in the society. Considering imprisonment and juvenile detention is derived from modern criminal sciences which Afghanistan has inferred its excellence. With practicing alternatives of imprisonment and juvenile detention, implementation of situations like; imprisonment at home, doing public services, with these deprivation durations from their social rights we hope that one day our nation witness the reduction of prisoners and decrease of documents in the courts of the country.

3.4 alternatives of imprisonment and juvenile detention,

² Kakar legal and consultative company, Beta, legislative report appendix no. 2 penal executions law, access on April 20th, 2018 from-
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a solution for reforming criminals

According to some people, publication of imprisonment and juvenile detention alternatives leads to occurring many crimes by people, and this law might lead to propagation of crime among the people in the country when their punishment is considered alternatives of imprisonment and juvenile detention. This portion is encourager of committing crime because deprivation from social rights or doing social services versus imprisonment and juvenile detention is very easy and makes everybody commit a crime.

This thought is basically wrong because imprisonment and juvenile detention alternatives have not been considered for hazardous individuals, murderer, organized crimes, national security criminals. But it is predicted for short imprisonment and medium imprisonments as it is mentioned in section 1 of article 151 of penal code “the court can condemn the crime perpetrator to alternatives of imprisonment of juvenile detention if the maximum legal punishment for the crime is not more than 5 years” (Afghanistan penal code, solar 1396: article 151, section 1).

As it is seen, concerns from rise of criminals and felons are not logical because short imprisonment and medium imprisonment usually relates to those who have committed small crimes, it does not relate to a professional criminal who is all the time committing crime as their duty. Because these kind of crimes leads to long-term imprisonment which lasts more than 5 years and are not included in the imprisonment alternatives. On the other hand, there might be someone who have the intention of doing a big crime but has not done his intended crime. The judge condemns them for 5 or less than 5 years imprisonment, in this case the third section of article 151 of penal code- criminals who are involved in hazardous crimes are taken as an exception and even if their condemnation is less than five years cannot use from punishment of imprisonment and juvenile detention alternatives. Afghanistan penal code clarifies that “crime perpetrators against the interior and foreign security, terrorist, financing terrorism, rape, corruption, financial, genocide crimes, against humanity, war, assault against the government are exceptional from the verdict no. 1 of this article” (Afghanistan penal code, solar 1396: article 151, 3rd section).

This impression may also be formed that criminals would do the same acts by using imprisonment alternatives and take benefit of imprisonment and juvenile detention. Felon people will be able to pursue their inauspicious plans by cooperation of their partners and legal gentleness which is considered in this regard. Article 152 of penal code says in this regard “when a defendant is spending the punishment of imprisonment and juvenile detention alternatives and at this time they commit another crime, the rest of alternative punishment will be changed to imprisonment as well as the other crime’s imprisonment. (Afghanistan penal code, solar 1396: article 152).

Therefore, the perpetrator or defendant cannot misuse from the alternatives of imprisonment and juvenile detention, or even commit a crime even when the alternative punishment is considered for them. In addition; article 155 of penal code mentions that “court during the issuance of its verdict on imprisonment and juvenile detention alternatives also asserts and mentions the consequences of lack of observing the court’s command decision”. (Afghanistan penal code, solar 1396: article 155).

As a result of this, the defendant is aware of the

consequences of committing another crime during the alternative punishment condemnation. The alternatives of imprisonment and juvenile detention is executable when the court condemns the perpetrator to imprisonment alternatives by utilizing from 149 and 151 articles of penal code. And this code condemns the perpetrator to imprisonment alternatives punishment in case of committing to the following issues: compensation for the victim, obtaining consent of the victim, commitment regarding observing stipulated conditions of the verdict and doing the concerned regulation honestly, commitment based on not committing crime in the future. (appendix no. 2, Afghanistan penal executions law on implementation of imprisonment and juvenile detention alternatives, solar 1396: article 4).

The relevant prosecutor’s office is responsible to introduce the imprisonment convicts to the relevant references in order to spend the sentenced duration. In this situation, the law for women imprisonment is practiced by a new regulation considering specific situations.

4. Challenges of imprisonment and juvenile detention alternatives

According to prediction, when the court issues the verdict of imprisonment and juvenile detention alternatives, one of the three monitoring is curtailed mentioned in order to pave the way for the performers who monitor the condemnation; electronic monitoring, monitoring by social worker, introducing to one of the official references. Each of these three monitoring in law is appended with its anticipation performance method. This issue has been mentioned in the 2nd appendix of Afghanistan penal execution law which is the integral part of penal code and a solution regarding use of imprisonment and juvenile detention alternatives in judicial system of Afghanistan. (Appendix no. 2, Afghanistan penal execution law on implementation of imprisonment and juvenile detention alternatives, solar 1396: article 59-62).

Although this law can pave the way for the country’s judicial system to apply the alternatives of imprisonment and juvenile detention, the following causes extensively show the challenges of applying imprisonment and juvenile detention which will create some problems in the judicial system of Afghanistan:

4.1 lack of electronic coverage

As it is clear, some parts of the country is not connected to the internet and telecommunication. However, we witnessed many efforts in this regard for joining Afghanistan with the wide global network of internet through fiber optics, still they have not succeeded hundred percent in this regard. In addition to limited coverage, the internet which is provided by telecommunication networks does not have good quality. Therefore, electronic monitoring of the criminals will encounter many limitations. (interview with Abdul Ghani Alawi, ATRA representative in Bamyan province, 1398 solar / 1 / 22)

4.2 lack of honesty in staff

As you see, some of the staff are not enough honest for monitoring the criminals. Therefore, when the staff’s honesty is questioned, there might be found many ways for misusing the alternatives of imprisonment and juvenile detention option.

4.3 Personal utilizing of criminals after introduction to official references

Possibly, when someone is introduced to an official reference for doing social services, the mentioned reference might use them in their personal use to their own benefit. As a result of this, the alternatives of imprisonment and juvenile detention will neither be beneficial for the government nor for the criminal, and on the contrary it will have negative effects for the both- government and criminal.

4.4 lack of overall security

Afghanistan is an unsafe country with fighting nation against the country. In this situation, many of the criminals are trying to join terrorist groups in order to evade from justice. On the other hand, when there isn't overall security in the country, how can we make people do social services instead of imprisonment and juvenile detention or how can we monitor them while doing social services?

4.5 Corruption and Bribe

The big problem of our country is corruption and this disaster has penetrated in most of the offices of Afghanistan damaging and destroying them. Till corruption exists in Afghanistan and it is not uprooted from Afghanistan, we can't get sure that the modern parts of rules specifically imprisonment and juvenile detention alternatives could be implemented successfully^[3].

5. Conclusion

The penal code of Afghanistan is one of the most up-to-date criminal laws in the region. Because of Afghan's society necessity. There is a new topic included in this law by the name of alternatives of imprisonment and juvenile detention for the first time to take a heavy economic and social responsibility or load from the government and people. Alternatives of imprisonment and juvenile detention involve many prominences. Besides, they encounter problems which we mention them below:

Imprisonment and juvenile detention alternatives option of penal code provides the perpetrators' families and government with the opportunity of work and income beside compensating their crime is beneficial and economical.

Paving the way for criminals to be with their families and preventing from fall of them in different troubles which are led by prison are considered in the alternatives of imprisonment and juvenile detention.

Prevention from growth of inferiority obsession in the prisoner, family and their children and preserving the incumbent communication of the perpetrator with the society so that they could feel themselves as part of the society and feel responsibility towards the society.

The alternatives of imprisonment and juvenile detention also

has some challenges; namely we can mention: lack of overall security, lack of overall coverage of internet and telecommunication, and lack of facilities in this regard.

Also corruption, taking bribe, provincial area, tribe, seeking personal profit in the governmental offices, lack of commitment of staff in their assigned tasks are other challenges of this law.

Although from some people's view, imprisonment and juvenile detention alternatives have not been institutionalized yet, it's applying by judges in judicial system specifically in children and juvenile trials shows the positive effect of this new judicial motion.

By applying this approach, besides reforming the criminal and returning them to their normal life, we pave the way for those criminals who are rapidly reformable and able to return back to the society.

Among all the criminals, children and juveniles considering their age conditions and their future have a more sensitive situation. And according to many lawyers and psychologists they are needy of special attention from different judicial and executive references. Specifically applying the new solution for them- punishments of imprisonment and juvenile detention alternatives.

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