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Islamic Emirate of Afghanistan
The Supreme Court
General Directorate of The Secretariat
Department of Correspondences

Date: 12/02/1445 AH

(Coinciding with 7/6/1402 H.Sh. | 29 August 2023)

In the name of Allah, the most merciful, the most gracious

Drug Penal Procedures

Praise be to Allah, and peace and salutation be upon His messenger: Allah SWT has said: I seek refuge with God from Satan, the damned, In the name of the most merciful and compassionate:

O ye who believe! Intoxicants and gambling (dedication of) stones and (divination by) arrows are an abomination of Satan's handiwork: eschew such (abomination) that ye may prosper. (5:90)

Jabir – May Allah be pleased from him – narrated that a person came from Jaishan, a town in Yemen, and he asked Allah's messenger (ﷺ) about the wine which was drunk in their land and which was prepared from millet and was called Mizr. Allah's Messenger (ﷺ) asked whether that was intoxicating. He said: Yes. Thereupon, Allah's Messenger (ﷺ) said: Every intoxicant is forbidden. Verily Allah the Exalted and Majestic made a covenant to those who drank intoxicants to make their drink Tinat al-Khabal. They said: Allah's Messenger, what is Tinat al-Khabal? He said: It is the sweat of the denizens of Hell or the discharge of the denizens of Hell. Sahih Al-Muslim (3/1578)

"اتفق أهل السنة والجماعة على حرمة المسكر، القليل منه والكثير سواء". المبسوط للسرخسي: (٣/٢٤)

Ahl-e-Sunnah Wal-Jama'ah have agreed on the prohibition of intoxicant, its minute and large quantities are same. Al-Mabsub by Sarkhasi (24/3)

واتفق الفقهاء على تعزير متناول المخدرات بدون عذر كمال في حال التداوي والتعزير يكون بالتوبيخ والضرب والحبس والتشهير... وغير ذلك مما يراه القاضى أو الحاكم زاجراً ورادعاً الناس عن اقتزاف الجرائم والمنكرات.

(الفقه الاسلامى والله، ٧/٥٥١٩)

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Tazeer (discretionary punishment) is delegated to the Opinion of the Imam (ruler). (Radd Al-Muhtar 60/4)

A meeting took place on 12/2/1445 H.D. (29 August 2023) under the leadership of His Excellency Amirul Momenin, leader of the Islamic Emirate of Afghanistan. Attendees included the honorable Head of the Supreme Court and the Chief Justice, honorable Deputy Head for Judicial Affairs of the Supreme Court, the honorable Director of the General Division of Cassation of the Southwest Zone and Deputy Head for Judicial Affairs of the Supreme Court, honorable Head of the Supreme Court's Secretariat, honorable Head of the Public Security Division of Kandahar's Urban Court, honorable Deputy Minister for Narcotics Affairs, and the honorable Governors of Nangarhar, Badakhshan, Kandahar, Helmand, and Farah provinces. The meeting addressed penalties for the cultivation, sale, transportation, and consumption of poppy, hashish, and other intoxicants. Further details are provided below:

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Topic 01

Penalties for Cultivation of Poppy and Hashish

Article 1: If an individual cultivates poppy or hashish in less than a Jerib of land (less than 1,000 square meters), he shall be sentenced to 6 months of imprisonment.

Article 2: If an individual cultivates poppy or hashish in a half Jerib of land (1,000 square meters), he shall be sentenced to 9 months of imprisonment.

Article 3: If an individual cultivates poppy or hashish in one Jerib of land (2000 square meters) or more than that, he shall be sentenced to one year of imprisonment.

However, the farmer cultivating poppy or hashish, whether he is the owner of the land or lessee or partner, are all equal in penalties. Their cultivation shall be destroyed, and they shall be sentenced to imprisonment, as mentioned above.

Topic 02

Penalties for importers of poppy and hashish from abroad

Article 4: If an individual imports hashish or poppy to Afghanistan, if the weight of the hashish or poppy is one kilogram or less, its transporter shall be sentenced to one year of imprisonment.

Article 5: If the weight of the transported hashish or poppy ranges from one kilogram to five Kilograms, its transporter shall be sentenced to two years of imprisonment.

Article 6: If the weight of the transported hashish or poppy ranges from five Kilograms to thirty Kilograms, its transporter shall be sentenced to three years of imprisonment.

Article 7: If the weight of the transported hashish or poppy exceeds thirty Kilograms, one year of imprisonment is added with the increase of every 10 Kilograms. However, the maximum penalty for this is seven years.

Topic 03

Penalties for vendor of poppy, hashish, and other intoxicants

Article 8: A vendor (bartender), if arrested with drugs like (any type of heroin, poppy, hashish, tablet K, wine, Tramadol 250 gm, Pregabalin (Zeegap), crystal methamphetamine (Ice), etc.) with a quantity of five grams or less, shall be sentenced to one year of imprisonment.

Article 9: A vendor (bartender), if arrested with drugs like (any type of heroin, poppy, hashish, tablet K, wine, Tramadol 250 gm, Pregabalin (Zeegap), crystal methamphetamine (Ice), etc.) with a quantity ranging from five grams up to thirty grams, shall be sentenced to two years of imprisonment.

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Article 10: A vendor (bartender), if arrested with drugs like (any type of heroin, poppy, hashish, tablet K, wine, Tramadol 250 gm, Pregabalin (Zeegap), crystal methamphetamine (Ice), etc.) with a quantity ranging from thirty grams up to hundred grams, shall be sentenced to two and half years of imprisonment.

Article 11: Where a vendor (bartender) is arrested with drugs like (any type of heroin, poppy, hashish, tablet K, wine, Tramadol 250 gm, Pregabalin (Zeegap), crystal methamphetamine (Ice), etc.) with a quantity of 100 grams, six months of imprisonment shall be added with the increase of every 100 grams. However, the maximum imprisonment shall be seven years.

Topic 04

Penalties for Consumers of Intoxicants

The consumer (addict) of intoxicants may face penalties ranging from one month to six months, considering their condition. Within this range, the exact penalty is at the judge's discretion.

Topic 05

Penalties for the farmer, buyer, vendor, transporter, and owner of the factory of Ephedra

Article 13: For the farmer of Ephedra, his ephedra shall be set on fire, and he shall be sentenced to ten days of imprisonment.

Article 14: Transporter of Ephedra with his vehicle shall be sentenced to imprisonment for three months.

Article 15: The owner and workers of an Ephedra factory will serve a six-month imprisonment sentence, and the factory will be dismantled. If the factory is situated within a residence, the village mosque's Imam and the village elder will join the designated Mujahideen during daylight hours to oversee the factory's destruction.

Topic 06

Penalties related to Methamphetamine (F-substance)

Article 16: Transporter, vendor, and buyer of Methamphetamine, if arrested with Methamphetamine with ten Kilograms of or less in quantity, shall be sentenced to six months of imprisonment.

Article 17: Transporter, vendor, and buyer of Methamphetamine, if arrested with Methamphetamine ranging from 10 Kilograms to fifty Kilograms in quantity, shall be sentenced to one year of imprisonment.

Article 18: For those involved in the transportation, sale, or purchase of Methamphetamine, an additional six months of imprisonment will be imposed for every fifty kilograms possessed

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beyond the initial fifty kilograms. The maximum penalty for this offense is capped at seven years.

Topic 7

Penalties related to crystal methamphetamine (Ice) and its ingredients

Article 19: The owner and employees of the factory of an intoxicant substance known as crystal methamphetamine (Ice) shall be sentenced to one year of imprisonment, and the factory shall be demolished.

Article 20: Buyer, vendor, and transporter, if arrested with crystal methamphetamine (Ice) with one kilogram or less in quantity, shall be sentenced to one year of imprisonment.

Article 21: Buyer, vendor, and transporter, if arrested with crystal methamphetamine (Ice) with one kilogram five kilograms in quantity, shall be sentenced to one and a half years of imprisonment.

Article 22: Buyer, vendor, and transporter, if arrested with crystal methamphetamine (Ice) with five Kilograms to 10 Kilograms in quantity, shall be sentenced to two years of imprisonment.

Article 23: For the buyer, vendor, and transporter, if arrested with crystal methamphetamine (Ice) exceeding 10 Kilograms in quantity, six months of imprisonment shall be added for every kilogram. However, the maximum imprisonment shall be seven years.

Topic 08

Penalties related to wine

Article 24: Producers, sellers, purchasers, and transporters of wine, as well as wine consumers whose Hadd punishment is dismissed, will face a two-year imprisonment sentence and thirty-nine lashes. Additionally, any confiscated wine will be destroyed. The fate of vehicles used for transporting the wine will be at the discretion of the judge.

Topic 09

Penalties related to importing intoxicants from abroad

Article 25: An individual who imported from abroad one to 10 tablets of one of the three types of intoxicants, such as Tramadol and Pregabalin (Zeegap) if arrested without a permit and the Tablet K, which is not permitted at all, which are being imported from abroad, shall be sentenced to six months of imprisonment.

Article 26: If an individual imports more than ten tablets of intoxicants like Tramadol or Pregabalin (Zeegap) from abroad without a permit or imports Tablet K, which is not permitted

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at all, an additional six months of imprisonment will be imposed for every increment of ten tablets. The total imprisonment duration, however, cannot exceed seven years.

Topic 10

Penalties for Importer of Acids without Permit

Article 27: An individual, if arrested with one to ten liters of any type of acid without a permit that is utilized in the production of drugs or mixed with drugs, shall be sentenced to three months of imprisonment.

Article 28: If an individual is arrested with ten to fifty liters of any type of acid without a permit, which is utilized in the production of drugs or mixed with drugs, he or she shall be sentenced to six months of imprisonment.

Article 29: If an individual is arrested with over fifty liters of any type of acid without a permit, which is utilized in the production of drugs or mixed with drugs, three months of imprisonment shall be added with an increase in every ten liters. However, the maximum imprisonment shall be three years.

Topic 11

Penalties for the Drugs mixed with poppy

Article 30: Transporter, vendor, and buyer of the drug mixed with poppy, if arrested with less than ten Kilograms, shall be sentenced to three months of imprisonment.

Article 31: Transporter, vendor, and buyer of the drug mixed with poppy, if arrested with ten Kilograms to fifty Kilograms, shall be sentenced to six months of imprisonment.

Article 31: For the transporter, vendor, and buyer of the drug mixed with poppy, if arrested with a quantity exceeding fifty Kilograms, three months of imprisonment shall be added with the increase of every ten Kilograms. However, maximum imprisonment shall be up to three years.

Note:

Any intoxicant leading to imprisonment will be destroyed under the supervision of the designated delegation.

In addition to the specified intoxicants, if an individual is detained with drugs of a small quantity, as listed in the attached procedure, the penalty will be at the discretion of the judge.

If an official from the Islamic Emirate is apprehended with intoxicants for which penalties are defined, they will be penalized as per the cited article. Their weapons and equipment will be confiscated and forwarded to the General Commission. This commission will then pass them to the superior entity, ensuring they are not returned to the official's unit. Should the

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aforementioned official be apprehended for a repeat offense, they will be dismissed from their position.

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Page 2 of the meeting chaired by His Excellency Amirul Momenin. May Allah Protect Him!

Records and Communication

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Walaikum Assalaam Warahmatullahi Wabarakatuh!

After salutation: The Drug Penal Procedures, containing 11 topics and 32 articles, is approved.

Regards

(Stamp)

Order No. 1397

Date: 15/3/1445 H.D. | 8/7/1402 (30 September 2023)

To: Office of the Head of the Supreme Court!

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