

**REPUBLIC OF AFGHANISTAN
MINISTRY OF JUSTICE**

**Law on Structure and Authority of the Attorney
General's Office¹**

REPUBLIC OF AFGHANISTAN

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¹ The term Prosecutor Office is used equally for the word Saranwali in this law statement; however this subject is about the law of the LOI SARANWALI (Grand Prosecutor Office) which is equal to common law term Attorney General's Office, so instead of Grand Prosecutor Office the term Attorney General Office is used in this translation. The same for the term LOI SARANWAL which is equal to Grand Prosecutor -- the term Attorney General is used. Note that the Afghan LOI SARANWAL uses the term "Attorney General" on his business card.

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Law on Structure and Authority of the Prosecution Office of Republic of Afghanistan

CHAPTER ONE

General Provisions

Article 1:

Pursuant to Article 121 of the Constitution, this law is enacted in order to regulate the affairs relating to the structure, duty, composition, authority and modus operandi (way of operating) of the Prosecutor Office of Republic of Afghanistan.

Article 2:

The Prosecutor's Office of the Republic of Afghanistan functions in order to ensure the following goals:

1. To strengthen legality and order in society;
2. To defend the spiritual and corporeal rights and interests of the central and local governmental organizations, quasi- governmental institutions and private institutions, political parties, social organizations and other individuals;
3. To monitor equal application of and adherence to the law;
4. To take measures in order to prevent crime occurrence;
5. To prosecute suspects and accused according to the provisions of the law.

Article 3:

1. The budget for the AG's Office, after confirmation of the advisory body shall be processed according to the provisions of the law;
2. The structure of the AG's office is prepared by AG's office and shall be implemented after the approval of the President.

Article 4:

The assigned prosecutor is duty bound to participate in the courts during the trial of the criminal cases.

Article 5:

In all instances related to violations of law, the prosecutor offices are duty bound to take all necessary measures in order to eliminate it and considering the principle of proportion of crime with punishment, attribute the criminal responsibility to the perpetrator of the crime and to seek punishment pursuant to guidelines set forth by law.

Article 6:

While holding a position in the Saranwali, the Prosecutors cannot be member of a political party.

CHAPTER TWO

STRUCTURE AND COMPOSITION OF THE ATTORNEY GENERAL OFFICE

Article 7:

- 1) The Prosecutor Office of the Republic of Afghanistan is composed of the following:
 - a. The Attorney General of Afghanistan and his deputies;
 - b. The Advisory Body;
 - c. Professional central Presidents and directors in charge of the professional and administrative sections;
 - d. Prosecutors;
 - e. Interrogators;

- 2) The prosecutor office of the Republic of Afghanistan is formed in the following manner:
 - a. Central Prosecutor's Office² (civil, military and national security).
 - b. Appellate Prosecution Offices (civil, military and national security).
 - c. Provincial Prosecution Offices
 - d. Primary Prosecution Offices (civil, military and national security).

Article 8:

The Attorney General is at the head of the Prosecution Office and has the following assistants:

1. Deputy in investigation affairs;
2. Deputy in judicial prosecution;
3. Deputy in monitoring affairs;
4. Deputy in military and armed forces affairs.

Article 9:

The Advisory body of the Republic of Afghanistan is composed of:

1. Attorney General as chief;
2. Deputies of the AG as members;
3. Professional central Presidents from Investigation, Monitoring and Judicial Prosecution departments as members.

Article 10:

² The Afghan term for this term is SARANWALI STERA MAHKAMA which is equal to Supreme Court Prosecutor Office

1. To fulfill the assigned duties, the Prosecution Office has central departments and sections which are presided over and in charge by directors.
2. Prosecutors, interrogators and administrative staff with respect to the related duties are included in the composition of the departments and sections indicated in the Paragraph 1 of this Article.

Article 11:

The Supreme Court prosecutor has the authority to object the decisions of the provincial or appellate courts to the Supreme Court division after the confirmation of the relative deputy AG.

CHAPTER THREE

DUTIES AND THE AUTHORITY OF THE ATTORNEY GENERAL OFFICE

Article 12:

The Prosecutor in his/her relevant field has the following duties and authorities:

1. To strengthen legality;
2. To defend the political rights, the right to work and freedom of the citizens stated in the Constitution and other legislative documents;
3. To safeguard and defend the rights and the legitimate interests of the central and local governmental, quasi-governmental and private institutions, political parties, social organizations against violation;
4. To supervise implementation and equal adherence to the law during the execution of the functions of the organization related to crime discovery and investigation;
5. To monitor the legality of the activities of the organization related to discovery and investigation of crime;
6. To supervise the activities of the individuals responsible for prisons and detention centers.
7. To organize affairs relating to discovery and investigation of crimes, to identify and attribute the criminal responsibility of the individual who has committed a crime;
8. To take measures in order to prevent criminality with the cooperation of concerned administrations;
9. To regulate affairs relating to the statistics of crimes and to prepare reports regarding discovery and investigation of crimes.
10. To participate in legal public awareness campaigns to enhance the level of legal knowledge of citizens;
11. To evaluate suggestions, complaints and petitions of the central and local governmental, quasi-governmental and private institutions, political parties, social organizations and citizens and to make decisions in the relating field;
12. To guide the activities of the lower Prosecution Office and evaluate its functions;

13. To unify and arrange the activities of the Prosecution Office in order to eliminate any defect and to promote the performance level of the subordinate Prosecution Office;
14. To take necessary measures in order to build capacity of prosecutors and interrogators;
15. To perform other duties and authorities pursuant to the provisions of law.

Article 13:

In addition to duties and authority of the Attorney General indicated in this law, s/he has the following duties and jurisdiction:

1. Leading the activities of the Prosecution Office and evaluating their executions;
2. Issuing orders and giving instructions to the relevant Prosecution Offices;
3. Participating in the Supreme Court High Council session related to revisions the decisions of the court;
4. Assigning competent Prosecutor in the case of conflict of jurisdiction during the investigation and prosecution of the accused;
5. Making recommendations relating to amendment, addition and annulment of law to each of the two houses of the National Assembly after the confirmation of the advisory body;
6. Monitoring the implementation and equal adherence to the law by governmental organizations and citizens of the country.

Article 14:

In addition to the authority indicated in Article 13 of this law, the AG, in the field of equal implementation of law by the courts, has the following jurisdictions:

1. Required explanation on precise application of laws during settlement of the cases in courts of the Republic of Afghanistan;
2. Making recommendation regarding the revision of the final decision of the Supreme Court Divisions and the final decisions of the various courts with the discovery of newly acquired reasons according to the provisions of the law;
3. Making recommendation to substitute a court according to the provisions of law;
4. Objecting the final decisions of the Provincial, Appellate and Primary courts;
5. Making recommendation to the Supreme Court high council regarding conducting urgent meetings of high council in order to revise Supreme Court Divisions final decisions.
6. To perform other authorities according to the provisions of law.

Article 15:

The responsible officials are duty bound to carry out order and instruction of the AG relating to discovery and investigation of crimes.

Article 16:

In the absence of the AG, his/her authority will be exercised by deputy for whom AG's authority is delegated.

Article 17:

In addition to the duties and authorities mentioned in this law, the Advisory Body of the Attorney General Office of Republic of Afghanistan, has the following duties and jurisdictions:

1. Evaluating and analyzing main issues relating to the activities of the Prosecution offices;
2. Assessing or evaluating the draft of regulations and code of conduct relevant to the affairs of the Prosecution Office of the Republic of Afghanistan;
3. Assessing issues relating to training and education of cadre of the Prosecution Office;
4. Assessing the reports of deputies of AG, , professional presidents, appellate and provincial prosecutors;
5. Assessing and controlling equal application of and adherence to laws and , other legislative documents, orders and instructions of the Afghanistan AG by the prosecution offices;
6. Assessing affairs relating to the promulgation and specifying its future courses of action in order to enhance legal awareness of citizens;
7. Assessing other issues presented by AG.

Article 18:

The Advisory Board meetings will be held in the presence of the majority of the members and decisions are made by majority of votes.

Article 19:

The prosecutor has the following duties and jurisdiction in the field of investigation:

1. Attribution of crime to the criminal according to the provisions of the law;
2. Abstaining from unlawful attribution of allegations against a real or natural person, based on no reason and imposing illegal limitations on their rights.
3. Abstaining from unlawful deprivation of liberty, arrest, detention of the suspect and accused.
4. Abiding by law during the initiation and prosecution of criminal cases and protecting the rights of the parties of the claim;
5. Requesting the documents, materials and other evidence relating to the occurrence of the crime from the responsible officials for discovery and investigation of the crime;
6. Collecting adequate evidence of conviction or innocence of the accused;
7. Issuance of instructions regarding the execution of the discovery and investigation of the crime in order to identify, amend or nullify the measures taken against a suspect or accused or to summon them, determination of the quality of the crime, severity of the allegation and execution of the discovery, prosecution and investigation of accused who are in hiding.

8. Determining movable and immovable property of the accused and to preserve it proportional to their value, to take into consideration the equal forfeiture according to the orders of the financial and economic law;
9. Recommending inspection of the area or house in order to gather the traces of evidence to the authorized court;
10. Participating in the discovery and investigation of the crime pursuant to the provisions of the law;
11. Returning the criminal file to the authorized organization of discovery and investigation and issuing order in order to correct the defects;
12. When the prosecutor violates the provisions of the law, taking the case from that prosecutor and reassigning the case to another interrogator(s);
13. Issuing order to initiate the criminal proceeding;
14. Issuing order to supervise the suspect or accused and making recommendations related to their detention and modification of detention to the authorized court;
15. In case the crime has not been committed or if there is not adequate evidence to support the conviction against the accused, the file shall be preserved.

Article 20:

Regarding the conditions indicated in the Article 19th of this law, the responsible investigation prosecutor is duty bound to receive a confirmation from relevant prosecution office relating to his activities and then apply it.

Article 21:

In the field of prosecuting criminal actions, the prosecutor has the following duties and jurisdictions:

1. Confirm an indictment or an order pursuant to the dismissal of a criminal case and object the investigation of a case if there are gaps or defects and issue order in order to eliminate it;
2. Pursuant to the provisions of law, file a criminal complaint and demand compensation for the loss incurred to the authorized court;
3. Participate in the authorized court judicial session, give explanation and defend claims that have been filed in the court and if there is no grounded evidence, desist from filing a criminal complaint;
4. Give reason about the issues brought up during the proceeding of a case in the authorized court;
5. Object or accept the decision or order of the authorized court.

Article 22:

In the field of general monitoring, the prosecutor has the following duties and jurisdictions:

1. Monitor the conformity of orders, instructions, bills, by-laws and other documents issued by central and local governmental offices, governmental, quasi-governmental and private institutions, political parties, social organizations, citizens with the provisions of the Constitution, laws, legislative decrees, regulations, charters and approvals of the cabinet;
2. Attract the attention of the in charge person of an administration or organization in specific instances to inspect the subordinate administration or organization;
3. Assign experts to deal with the issues being brought up during monitoring;
4. Discover and determine violation of the provisions of law and delegate it to competent organization through issuing order;
5. Demand explanation regarding the causes of law violations from the responsible officials and citizens;
6. Make decisions and present them to the competent organizations in order to settle violation of law and explain administrative responsibility to the violator;
7. Monitor and assess the complaints of the citizens and notification of the responsible authorities about the violation of law;
8. Monitor or assess a case broadcasted by mass media;
9. Monitor and assess issues instructed by the President Office;
10. Assess information which is presented by discovery and inspection organs and their former and subsequent control;
11. Monitor former and subsequent activities of the inspection and inspection and control organizations as deemed necessary;
12. Monitor or assess the issues instructed by AG;
13. Monitor the implementation and enforcement of the decision of the court;
14. Monitor prisons and detentions centers at all times;
15. Meet in person with those who are under custody, detention or imprisonment and take measures regarding the above occasions in order to resolve their complaints;
16. Monitor the legitimacy of the orders and instructions of the responsible authorities of detention centers and prisons. If the order or instruction is in conflict with the law, the monitoring prosecutor can suspend and object it;
17. Demanding explanations from the authorities responsible for the detention and prison facilities if the provisions of law are violated.
18. Release people kept under detention or custody unlawfully;
19. Make decision in order to abolish unlawful order or instruction of the responsible authorities of prisons and detention centers.

Article 23:

While prosecutor monitor items set forth in paragraph 1,5 and 6 of Article 22 of this law, related organizations and responsible authorities are duty bound to

take action within 20 days after receiving the letter and provide the relevant prosecutor with the results.

Article 24:

1. The case being considered by one of the pre- and post-discovery and investigation bureau of the offices of control and inspection organizations, other authorized organization has no power to inspect it.
2. The prosecutor may monitor the case(s) that are under investigation of organizations and offices indicated in paragraph 1 of the Article.

Article 25:

The officials of the discovery and investigation organization are duty bound to confirm the accuracy and inaccuracy of the documents under consideration or monitoring process and sign them and also certify the relating letters and records.

Article 26:

1. If the officials of crimes discovery and investigation have not performed their duties pursuant to the provision of Article 19 of this law, the prosecutor monitoring the discovery and investigation is duty bound report in written about the issue to relevant head of the prosecution office.
2. The head of relevant prosecution office is duty bound to make legal decision on the issue.

Article 27

1. If the prosecutor of judicial prosecution has not function pursuant to the Article 21 of this law, the judicial monitoring prosecutor is duty bound to report the issue to the head of the relevant prosecution office.
2. The head of the prosecution office is duty bound to make a legal decision on the issue.

CHAPTER FOUR

STRUCTURE AND JURISDICTION OF THE APPELLATE AND PROVINCIAL PROSECUTION OFFICES

Article 28:

1. There is one Provincial Prosecution Office in every province and in Kabul city.
2. After confirmation of the Advisory Body, recommendation of the General Attorney and approval of the President, the Appellate prosecution Office shall be established.
3. The Provincial and Appellate Prosecutor Offices are composed of the directors, assistant, prosecutors, interrogators and administrative staff.

Article 29:

1. The Provincial Prosecutor Office is composed of:

- a. Investigation Prosecution Office.
 - b. Judicial Prosecution office.
 - c. Monitoring Prosecution Office.
2. The Appellate Prosecution Office is composed of:
- a. Judicial Prosecution office.
 - b. Monitoring Prosecution Office

Article 30:

- 1. Directors of the Provincial and Appellate Prosecution Offices are at the head and shall report to the Attorney General about their activities and executions, and the condition of the rule of law within their jurisdiction.
- 2. The assistants of the prosecution offices, prosecutors, investigation officers and interrogators are duty bound to reports to the senior prosecutor of their activities and the condition of the rule of law within their jurisdiction.

Article 31:

- 1. The Appellate or Provincial Prosecution Office shall object to the decision of the court in the relating field according to the provisions of law.
- 2. The director of the Supreme Court Prosecutor Office shall make a decision over the acceptance or rejection of the objection of the director of the of the Provincial or Appellate prosecutor offices.
- 3. After the confirmation of the Attorney General or his deputies in judicial prosecution affairs, the director of the Prosecution Office on the Supreme Court shall desist from objecting before the beginning of the trial of the case in the related division of the Supreme Court.

Article 32:

- 1. The Provincial Prosecution Offices shall assess cases of public crimes like appellate.
- 2. The Provincial Prosecution Offices shall assess in the primary phase cases of crimes against public security and in case of a delegation of authority, cases of crimes against internal and external security.
- 3. The Appellate Prosecution Offices shall assess the cases of crime against public security and crimes against internal and external security in the appeal phase.
- 4. The Attorney General shall delegate authority in the primary phase to the Provincial Prosecution office to assess the cases of crimes against internal and external security.
- 5. The Military Appellate Prosecution Office shall assess in the appeal phase cases relating to all military employees except for the cases relating to the Generals and officers working in General position.

CHAPTER FIVE

Structure and Authority of Primary Prosecution Offices

Article 33:

Primary Prosecution Office is established in the capital of districts administrative units, city, city districts and in the armed forces on the division level and levels above division, also in the case of need on brigade level.

Article 34:

Primary Prosecution Office is composed of:

1. Director;
2. Prosecutors;
3. Interrogators;
4. Administrative personnel

Article 35:

Primary Prosecution Office for Public Crimes has the jurisdiction to assess criminal cases in the primary phase, except for cases that the Military Primary and Appellate Prosecutor Offices have the jurisdiction to assess them in the primary phase.

Article 36:

The Military Primary Prosecution Office has the jurisdiction to assess the following cases:

1. Military crime or other crimes which have been committed during the duty or caused by performing duty by the military officers and crimes relating to negligence during recruiting to the compulsory military services.
2. Crime accomplished by civil employee of armed forces or military officer while on duty or caused by performing duty in unit, detachment and educational organization of armed forces.
3. The crime of non-military persons who are in a civil armed unit (Tribal army unit, militia, guard, country guards and all other defense groups) if relevant laws anticipated their crime as a military crimes by relevant laws.
4. Crimes relating to losing, selling , buying , stealing and embezzlement of weapons , ammunition and explosives or all other war equipments related to arm forces.

Article-37:

The Primary Prosecution Office for the crimes against internal and external security has the jurisdiction to assessing the following cases:

1. Cases resulted from the commission of crimes against internal and external security.
2. Cases resulted from the commission of crimes against the country's independency, national sovereignty and land integrity.

Article-38

Whenever a number of civil and military individuals are accused of committing a crime or crimes, the cases will be tried by the prosecution office which has jurisdiction over the serious crime, and the crime committed has equal anticipated punishment in law. The primary General crimes Prosecution Office has the jurisdiction to consider the case.

Article-39

The head of the Primary Persecution Office will report to the head of superior Prosecution Office regarding the Prosecution Office activities and executions related to the manner of implementation of legality within their jurisdiction.

Article-40

1. The Head of Primary Prosecution Office may object on the court decision in accordance to the provisions of law.
2. The head of the appellate and provincial court can reject or accept the orders of Primary Prosecution Office within their jurisdiction.
3. The heads of the Appellate and Provincial Court in related field can desist from the objection before the trial of case in the appellate and provincial courts.

CHAPTER SIX

Personal affairs of Prosecutors, staff and other employees of republic of Afghanistan Attorney General Office

Article-41

Prosecutors and Interrogator can be staff members of the prosecution office if they have the following qualification:

1. At least ten (10) years citizenship of the Republic of Afghanistan.
2. Should not have been deprived of his political rights.
3. Should not have been convicted of misdemeanor or felony,
4. Should have Bachelor degree in law or in Islamic jurisprudence from the country or foreign universities or have a degree from Darul Ulum(religious school), Religious Madrasas which are equivalent to baccalaureate or higher than that. If a person has two (2) years of work experience in one of the professional sections, he/she can be assigned as prosecutor or interrogator in the provinces.
5. Should be over 20 years of age.
6. The head of the persecutor office should be over 30 years.
7. Should not suffer diseases that prevent him from duty.
8. Has completed the compulsory military services or has obtained deferment or exemption letter from military services.
9. Should have completed one year of (Stage).

10. Should not be a member of any political party.

Article-42

By the Attorney General's recommendation and President's approval or president directly, can assign, transfer, promote, retire, reinstate, and accept the prosecutors', interrogators' and administrative staff resignations in position 1 , Higher than that and military officers in Brigadier General position and higher.

Article-43

Assigning, transferring, promoting, retiring, reinstating, and accepting prosecutors', interrogators' and administrative staff resignation in position 2 and lower then position 2 and military officers who have the Colonel rank or lower, and NCOs shall be proposed by Deputy of the Attorney General in the related section and the Attorney General has the authority for approval.

Article-44

1. First level appreciation letters will be given to prosecutors, interrogators and administrative staff of the prosecution office by the suggestion of Attorney General and approval of President.
2. The second (2) third (3) degree appreciation letters, recommendation letters, cash rewards for prosecutors, interrogators and administrative staffs will be approved by the Attorney General.
3. Other provisions regarding the rights and privileges and conditions contained in the government employees' law relating to granting appreciation letters, recommendation letters, cash rewards to republic of Afghanistan Prosecution Office employees are applicable.

Article-45

The approval of first (1) level officer rank of military prosecution organs employees will be given by Attorney General.

Article-46

All rights, salary privileges, promotion and rank or grade identification,, recreational, necessary, and sick leaves and all other personnel affairs related to the prosecutors, interrogators, staff, officers and the republic of Afghanistan Attorney General office NCOs will be provided in accordance to the provisions of government employees law and legislations.

Article-47

While promoting the directors of prosecution office, prosecutors and interrogators in addition to the conditions on the government employees' law and personnel affairs law, their manner of executions will be taken into consideration as well.

Article-48

Prosecutors and interrogators shall be paid according to prosecution office cadres' salary privilege.

Provisions that are related to the confirmation and promotion of prosecution office cadre and the amount of the privilege and other situations and conditions shall be arranged through separate regulation.

Article-49

Prosecution office employees shall not be allowed to work simultaneously in any other organization during the term of duty.

Teaching and scientific activities are excluded from this provision.

CHAPTER SEVEN

Criminal and disciplinary responsibility of prosecutors and interrogators

Article-50

1. Prosecutors and interrogators can be arrested and detained by the permission of Attorney General if they commit misdemeanor or felony but flagrant delicto crime is excluded from this provision.
2. In case the crime is flagrante delicto the assigned individuals for detection and arrest should report to the Attorney General office within one week about the issue and get the approval on the legitimacy of the execution.

Article-51

Prosecutors and interrogators shall be prosecuted as same as other persons in accordance to the provisions of law.

Article-52

Whenever prosecutors and interrogators commit administrative and disciplinary misconduct shall be disciplined in accordance to the provisions of legislative documents.

CHAPTER EIGHT

Miscellaneous Provisions

Article-53

The crime committed by Generals or officers who are working in Generals position in armed forces shall be assessed first in the relevant Appellate Prosecution Office and in the final phase in the Prosecution office of the Supreme court.

Article-54

1. Crimes committed by juveniles shall be assessed in the juvenile's Special Prosecution Office.

2. The Primary Prosecution office has the jurisdiction to assess the crimes committed by juveniles, where there is no Juvenile Prosecution Office.
3. Juvenile crimes evaluation procedure shall be arranged by special legislation documents.

Article-55

The organs of Prosecution Offices have a special stamp containing: Government of Afghanistan official logo, name of the relevant prosecution office and section.

Article- 56

Prosecutors while participating in the court proceeding should attired with their specific uniform that has been determined in relevant internal regulation

Article-57

Prosecution office staff shall be granted a special badge (ID card) in accordance to the sample that passed by Advisory Body and will be approved by the Attorney General.

Article-58

Officers, military school NCOs, Unit NCOs, and armed forces prosecution Offices are duty bound to abide the provisions of this law and other legislative documents and also they are entitled to all the rights and privileges contained of this law and other legislative documents.

Article-59

The armed forces organs are duty bound for the protection of the Prosecution offices and the documents in their relevant areas. They should obey the order of prosecutor and interrogator to summon the accused and suspect and others who are involved in the case.

Article-60

Functions and jurisdiction of administrative sections will be regulated through separate procedures and rules.

Article-61

1. In order to implement the provisions of this law, procedures, bills and regulation shall be arranged.
2. The regulations within the area of Prosecution Office of republic of Afghanistan in the provision of law limitations and after being passed by Advisory Body and being approved by Attorney General Office and shall be presented to the President of Afghanistan.

3. The procedures and regulations will be prepared by relevant sections of the Prosecution Office and will be applicable after being passed by Advisory Body and being approved by the Attorney General.

Article -62

This law will become effective from the date of approval and will be enacted after publication in official gazette, and after being promulgated, the law published in the official Gazette No;(674) dated 31/6/1367 and the amendment published in the Gazette No: (686) dated 15/12/1367 and all the contradictory provisions are quashed.