



# ASSESSMENT OF THE PERFORMANCE OF THE JUSTICE DEPARTMENT IN THE FRAMEWORK OF GOOD GOVERNANCE CHARACTERISTICS (A CASE STUDY OF BALKH PROVINCE)

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## Abstract

Afghanistan passed more than four-decade war, for this reason, all administration of Afghanistan face many challenges, like other departments and administrations, the justice department of Balkh, also affected by war, the justice system in Afghanistan is weak in terms of institutional, material, and human capacity and damaged by corruption and mismanagement. This research is entitled "Assessment of the performance of the department of justice in the Framework of Good Governance Characteristics, which aims to evaluate the performance of the department of justice based on Good Governance Characteristics. In this research both secondary and primary data, are used, Seven good governance criteria have been used in this research, which participation and responsibility were near to moderate and other characteristics of good governance was less in the department of justice. The results of the research in the performance of the department of Balkh justice indicate that the level of all good governance criteria is lower than the average, except for equality and inclusiveness, participation, and responsibility. Therefore, it can be said that the performance of the department of Balkh justice in the framework of good governance criteria from the perspective of citizens is undesirable.

**Keywords:** *Good Governance characteristics, justice, Performance, Balkh*

## Introduction

Justice is a complex concept and touches almost every aspect of human life. The word Justice has been derived from the Latin word “Jungere” meaning ‘to bind or to tie together. The word ‘Jus’ also means ‘Tie’ or ‘Bond’. In this way, Justice can be defined as a system in which men are tied or joined in a close relationship. Justice seeks to harmonize different values and to organize upon it all human relations. As such, Justice means bonding or joining or organizing people together into a right or fair order of relationships. Justice protects the rights of the individual as well as the order of society.” -Dr. Raphael

Department of justice in the form of organizations and groups, as well as individual activists, is, therefore, an important contributor to a constructive and critical dialogue in terms of strengthening legitimacy and accountability, and it plays a crucial role in bridging the voices and concerns of people in policy formulation and decision-making. Following a bottom-up approach from the village, district, and province to the national level, the proactive engagement of department of justice actors in governance processes can ensure improved services, accountability, and transparency as a result.

The term of governance is distinguished from a government. The concept of "governance" is not new. It is as old as human civilization. "Governance" means the process of decision-making and the process by which decisions are implemented or not implemented. According to the definition and indicators of good governance, numerous researches and analyses have been conducted in the field of good governance in different countries or by researchers and governmental and non-governmental institutions (Kumssa and Isaac M. 2004).

The concept of good governance emerged mainly because of practices of bad governance, Good governance is measured by the eight factors of Participation, Rule of Law, Transparency, Responsiveness, Consensus Oriented, Equity and Inclusiveness, Effectiveness, and Efficiency, and Accountability. Governance what a “government” does. It might be a geo-political, a corporate government, a socio-political government, or any number of different kinds of government. Governance is the dynamic exercise of management power and policy, while the government is the instrument that does it.

## Statement of the problem

The justice structure in Afghanistan is weak in terms of institutional, material, and human capacity and riddled by bribery and misconduct. According to Transparency International’s Global Corruption Barometer, the formal justice sector in Afghanistan is the most severely affected by corruption. Their experiences show that practically good governance in these countries is made as a sequence of the expansion of democratic political parties, transparent elections, free media, and independent judicial systems that law and the expansion of citizenship values, real education, and civil movements (Amjad, 2001:12).

Justice is the most important and most discussed objective of the State, and Society. It is the basis of orderly human living. Justice demands the regulation of selfish actions of people for securing a fair distribution, equal treatment of equals, and proportionate and just rewards for all. It stands for harmony between individual interests and the interests of society. Justice is of central importance to political theory. In defending or opposing laws, policies, decisions, and actions of government, appeals are made in the name of justice. Persons involved in every agitation for securing their interests always raise the slogan: “We want Justice”. All civil rights movements are essentially justice movements.

The Government’s efforts to re-establish a stable state, and help its citizens feel that the state can deliver justice through the neutral application of the law, are challenged by poorly functioning representative governance structures centered largely in the urban areas, weak law enforcement mechanisms, insecurity, and weak government service delivery mechanisms. The "justice" of an administrative system means simply the qualities of the system that argue for the acceptability of its decisions (Mashaw, 1981).

French defines it as ‘the perception of values or attitude about how a decision-maker should act’ (French, 1999).

Performance can be defined as achieving results or the degree of accomplishment. According to Gaspersz quoted by Adisasmitha (2006), in the government sector, performance can be interpreted as providing productive, effective, and efficient services and in the form of continuous control of government management so that it can improve the smoothness and accuracy of government and development tasks. Armstrong and Baron (1998) in Wibowo (2007) state that the factors that influence performance include: personal factors, system factors, contextual/situational factors. Other than these factors, several indicators are often used to see the performance of local government, but one of the indicators that are often used to see the performance of local governments is the regional judgmental accountability reflected in the quality of local government’s judgment statements.

all, the idea of good governance has flourished ever since and has certainly evolved into a transnational concept of political leadership, a real leitmotiv for a common approach to the way how our global village should be governed. The incredible success story of the striving for good governance is, in my view, due to three cumulative aspects which certainly contributed a great deal to the general agreement that good governance is a concept without a proper alternative: Firstly, the concept of good governance is self-evident. It needs nothing else but common sense to be understood: Entrepreneurs will not invest in unstable countries and people, whether entrepreneurs or not, will not wish to live there, if they can afford to go elsewhere. Secondly, the concept of good governance is sufficiently vague to absorb a great variety of political preferences as well as substantive differences. Its flexibility is most certainly the reason why it has met so little resistance and found so much support. And thirdly, it was issued at the right point in time when public opinion was profoundly marked by the experience of the revolutionary force of glasnost and the general inability of corrupt regimes around the world to meet today's challenges.

### Concept of Good Governance

In terms of good governance distinguishing the term governance from government, “governance” is what a “government” does. It might be a geo-political, a corporate government, a socio-political government, or any number of different kinds of government. Governance is the dynamic exercise of management power and policy, while the government is the instrument that does it. Governance is not a new concept, and its background begins with the formation of human civilization. In simple terms, the concept of governance is a process of decision-making in which decisions are made (Farzin Pak, 2004, p. 68).

The term governance has two meanings-one is narrow and the other is broad. The former means simply to administer or rule the state under law or constitution. But in the present era governance is used in a broader sense. The public administration must be engaged in developing a backward nation and in the present century, a sizeable part of this task falls upon the public administration. The concept of good governance emerged mainly because practices of bad governance, characterized by corruption, unaccountable governments, and lack of respect for human rights, had become increasingly dangerous, and the need to intervene in such cases had become urgent. Good governance has become an important element of the political and economic agendas and has meanwhile been better specified along with the proliferation of good practices that consider the concept. Good governance” was initially expressed in a 1989 World Bank publication.

In 1992, World Bank published a report entitled, Governance and Development, which explored the concept further and its application. In 1997, World Bank redefined the concept of “good governance” as a necessary precondition for development. Good Governance is an approach to government that is committed to creating a system founded in justice and peace that protects individual’s human rights and civil liberties. According to the United Nations, Good Governance is measured by the eight factors of Participation, Rule of Law, Transparency, Responsiveness, Consensus Oriented, Equity and Inclusiveness, Effectiveness and Efficiency, and Accountability.

**i. Participation**

Good governance requires that civil society has the opportunity to participate by both men and women during the formulation of development strategies. This aspect of governance is an essential element in securing commitment and support for projects and enhancing the quality of their implementation. Participation needs to be informed and organized. This means freedom of association and expression and an organized civil society should go hand in hand.

**ii. Rule of law**

Good governance requires a fair, predictable, and stable legal framework enforced impartially. Full protection of human rights, especially minorities should be covered. Impartial law enforcement requires a judiciary to be independent and the police force should be impartial and incorruptible.

**iii. Transparency**

Transparency in government is an important precondition for good governance, and those decisions are taken and their enforcement is done in a manner that follows rules and regulations. Transparency ensures that enough information is provided and that it is provided in easily understandable forms and media.

**iv. Responsiveness**

Good governance requires the institutions to serve all stakeholders in a given time frame. There are several actors and viewpoints and the different interests in society need mediation. The best interest of the community should be analyzed and achieved which requires a broad and long-term perspective on what is needed and how to achieve the goals of sustainable development.

**v. Equity and inclusiveness**

A society's well-being depends on ensuring that all men and women have opportunities to improve or maintain their well-being. This requires all groups, especially the most vulnerable, should have opportunities to improve or maintain their standards of living.

**vi. Effectiveness and efficiency**

Good governance means Processes and institutions produce results that meet needs while making the best use of resources. The concept of efficiency covers the sustainable use of natural resources and the protection of the environment.

**vii. Accountability**

It is a key requirement of good governance. Both Public and private sector and civil society organizations must be accountable to the public and their institutional stakeholders. An organization or an institution is accountable to those who will be affected by its decisions or actions. Accountability can be enforced only with transparency and the rule of law.

In the last twenty years, the concepts of “governance” and “good governance” have become widely used in both the academic and donor communities. These two traditions have dissimilar conceptualizations. First, there is the academic approach, which focuses mainly on the study of the different ways in which power and authority relations are structured in a given society. Second, there is the donor community's approach, which emphasizes the role state structures play in ensuring social, economic, and policy equity and accountability through open policy processes.

## Concept and type of Justice

Justice is a difficult concept and touches practically every aspect of human life. The word Justice has been derived from the Latin word *Jungere* meaning 'to bind or to tie together. The word 'Jus' also means 'Tie' or 'Bond'. Justice, for many people, refers to fairness. Justice consists in a system of understandings and a procedure through which each is accorded what is agreed upon as fair."-C.E. Merriam, Justice is one of the most important moral values in the spheres of law and politics. Legal and political systems that maintain law and order are desirable, but they cannot accomplish either unless they also achieve justice. Justice is important to almost everyone, it means different things to different groups.

### Types of Justice:

Justice is mainly divided into three parts, social justice, Economic, and Political Justice:

#### 1. Social Justice:

In contemporary times a large number of scholars use prefer to describe the concept of Justice as Social Justice. Social Justice is taken to mean that all the people in a society are to be equal and there is be no discrimination based on religion, caste, creed, color, sex, or status. However, various scholars explain the concept of Social Justice in different ways. Some hold that social justice is to allot to each his or her due share in the social sphere. According to some others, the distribution of social facilities and rights based on law and justice constitutes social justice. Social justice is another name for equal social rights." "Social Justice aims to provide equal opportunities to every individual to develop his inherent qualities."-Barker

By social justice, we mean ending all kinds of social inequalities and then providing equal opportunities to everyone.-C.JP.B. Gajendragadkar

#### 2. Economic Justice:

Economic Justice is indeed closely related to social justice because the economic system is always an integral part of the social system. Economic rights and opportunities available to an individual are always a part of the entire social system. Economic justice demands that all citizens should have adequate opportunities to earn their livelihood and get fair wages as can enable them to satisfy their basic needs and help them to develop further. The state should provide them economic security during illness, old age, and in the event of a disability.

No person or group or class should be in a position to exploit others, nor get exploited. There should be fair and equitable distribution of wealth and resources among all the people. The gap between the rich and the poor should not be glaring. On the other hand, the socialists seek to establish complete control of society upon the entire economic system. They oppose private property. Whatever be the ideology or the system, one thing is clear and that is that all citizens must be provided with the necessities of life. All citizens must have their basic needs of life fulfilled (Food, clothing, shelter, education, health, and so on).

#### 3. Political Justice:

Political justice means giving equal political rights and opportunities to all citizens to take part in the administration of the country. Citizens should have the right to vote without any discrimination based on religion, color, caste, creed, sex, birth, or status. Every citizen should have an equal right to vote and to contest elections. Legal justice has two dimensions-the formulations of just laws and then to do justice according to the laws. While making laws, the will of the rulers is not to be imposed upon the ruled. Laws should be based on public opinion and public needs. Social values, morality, conventions, the idea of just and unjust must be always kept in view.

## Research Objectives

The objectives are:

1. To assess the current status department of justice of Balkh province and comparing it with good governance characteristics
2. To find out the constraints in promoting good governance in the department of justice of Balkh province
3. To suggest measures to promote good governance in Balkh justice Administration.

## Research questions

The questions are:

1. What is the current status of the department of justice of Balkh province according to the good governance characteristics?
2. What are the constraints in promoting good governance in the department of justice of Balkh?
3. What is the measure suggestion to promoting good governance in the department of justice of Balkh?

## Research Methodology

The research method is a quantitative and analytical type because in this study researcher is looking to find the relationship between causes and effects between two variables, using the linear registry method, the researcher analyzes the obtained data relationships. In this research both secondary and primary data, collection approaches were used. The secondary data collected from the government publication, official gazettes, national and international journals, articles, and books. For primary data collection, one questionnaire is used as an instrument. The Questionnaire is about the assessment of the implementation of good governance measures in the department of justice Balkh province, Afghanistan. In this research, Excel is used as a statistical technique to process and analyses the primary data which will be collected by the questionnaires. 15 number sample of citizen is selected, based on a simple random sampling method among members of the citizen of Balkh province.

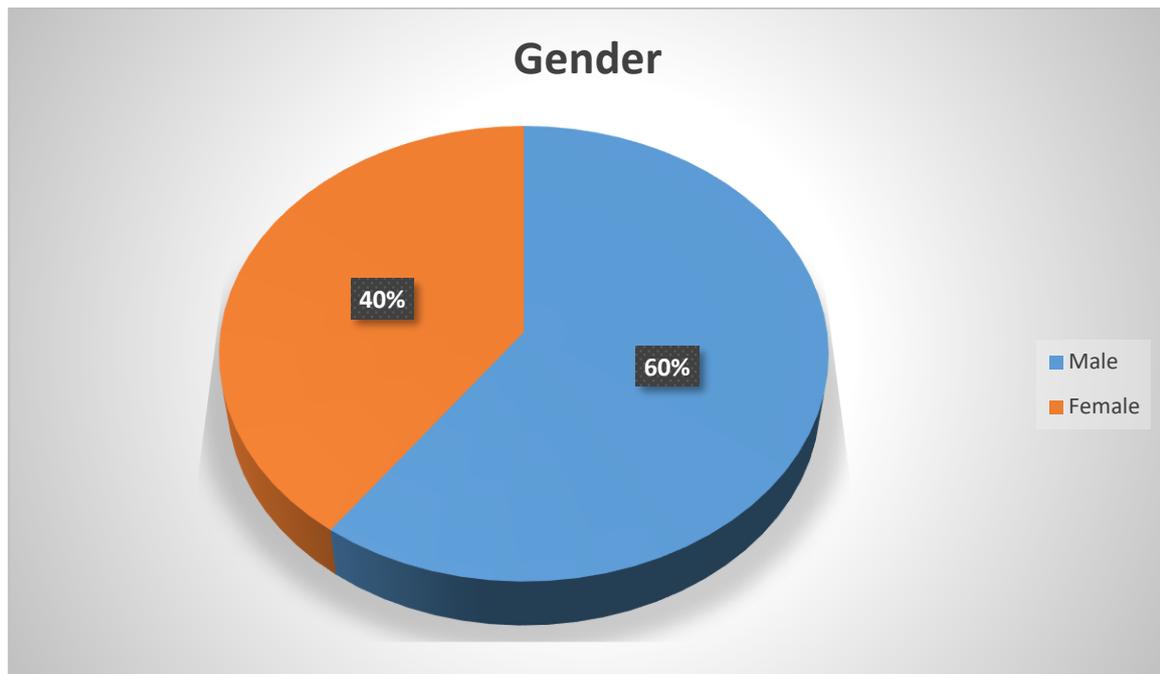
## Data Analysis

Research findings are one of the most important and influential parts of scientific research. In this part of the research, the researcher presents the figures obtained from the statistical analysis of his/her research questionnaires. This research is divided into two parts, the first part of which presents demographic data of the respondents, including age, gender, occupation, and education. In the second part, the researcher provided statistical data on questions related to the assessment of the implementation of good governance measures in the department of justice, Balkh province the main hypothesis of this study is as follows: Observing good governance characteristic improves the performance of the department of justice Balkh province. Seven basic indicators of good governance theories were used to assess and evaluate the performance of the department of justice, including participation, accountability, effectiveness and effectiveness, transparency, justice, rule of law, and responsibility.

## Analysis of Respondents' Demographic Data

The purpose of this section is to analyze the data obtained from the questionnaires related to the demographic characteristics of the respondents. The demographic characteristics of the respondents include gender, age, occupation, and education.

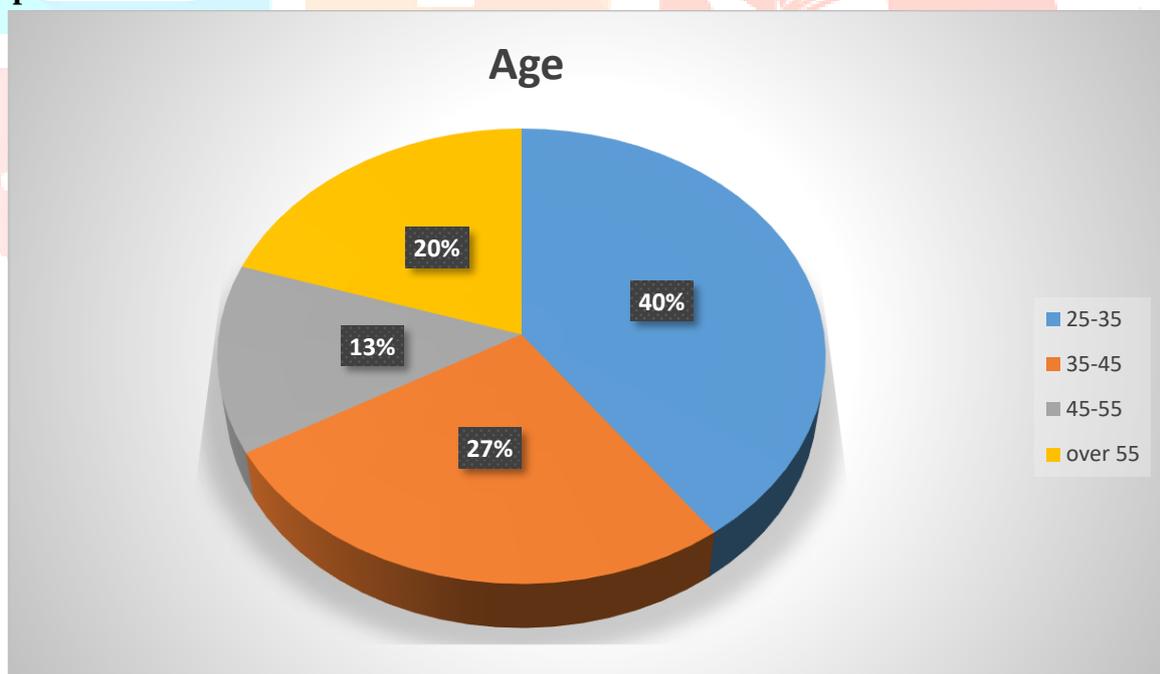
## Gender of Respondents



Graph 4-1: Gender distribution of the statistical sample source: research question.

Graph 4-1, shows the gender distribution of the respondents. In the current research, out of 15 respondents, 6 respondents (40%) are women and 9 respondents the remaining (60%) are men.

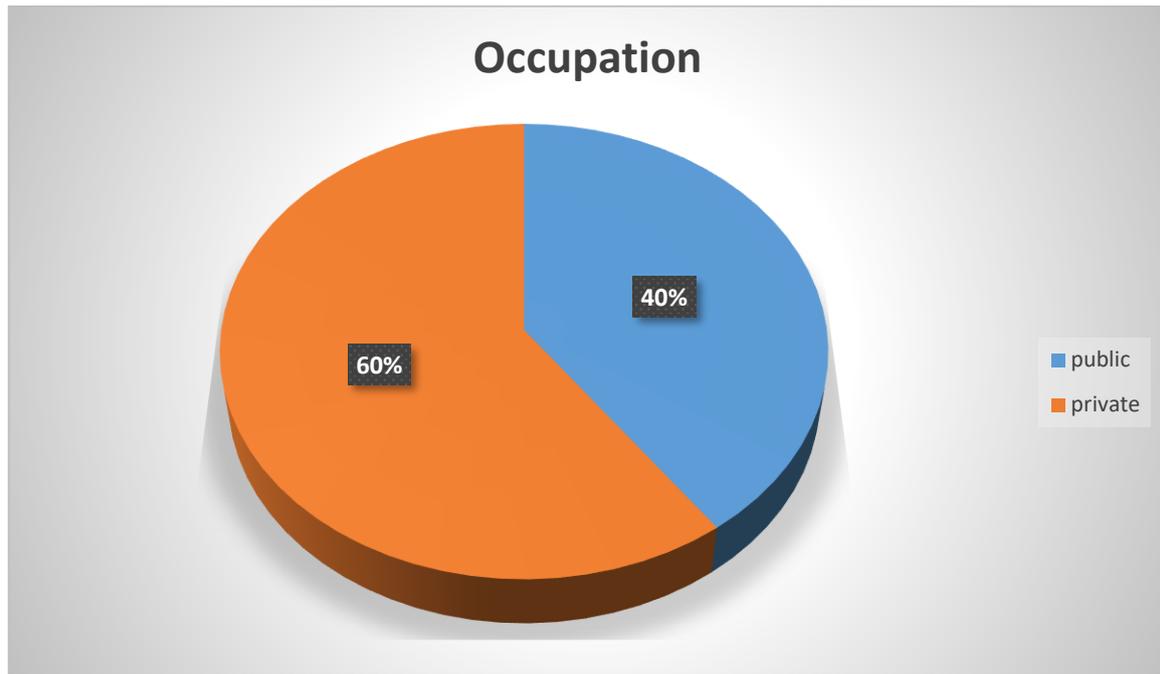
## Age of Respondents



Graph 4-2: age distribution of the statistical sample source: research question.

Table and graphs 4-2 are the results of the statistics on the age distribution of the sample population. Four age ranges were used to measure the age of the sample population which includes the age range of 25 to 35, 35 to 45, 45 to 55, and over 55 years. According to the statistical data, 6 persons (40%) were in the age range of 25-35, 4 persons (27%) were in the age range of 35-45, 2 persons (13%) were in the age range of 45-55 and 3 persons (13%) were over 55 year age.

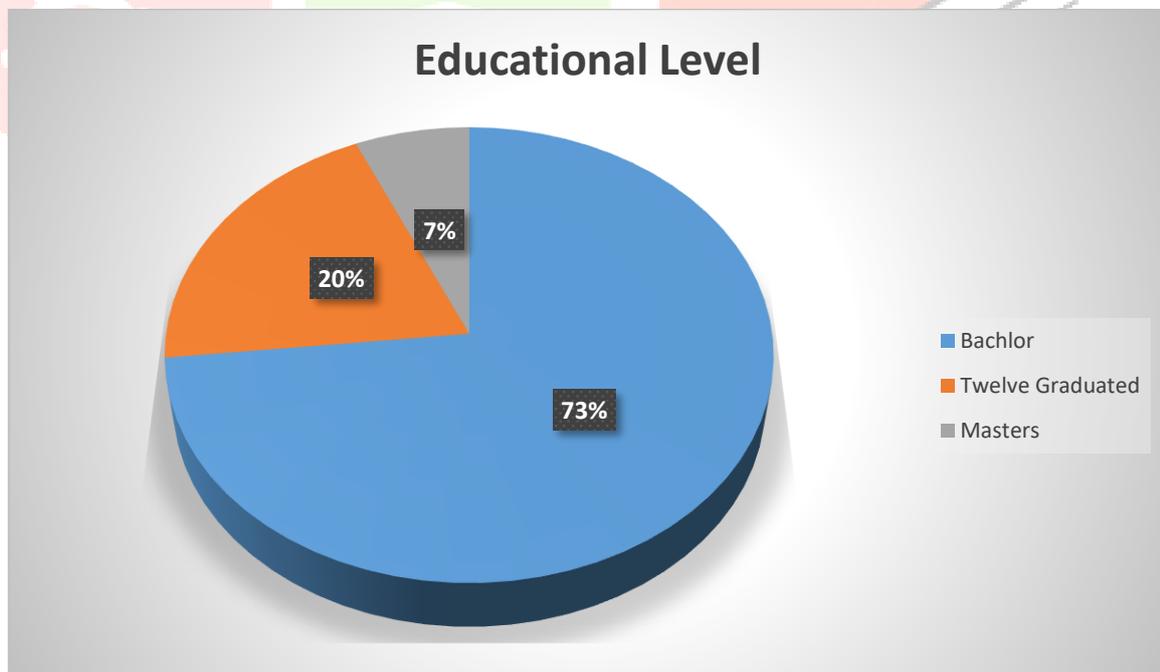
## Occupation of Respondents



Graph 4-3: Distribution of the statistical sample Occupation source: research question.

As can be seen in graph 4-3, shows the Occupation distribution of the respondents. In the current research, out of 15 respondents, 9 respondents (60%) are working in a private company and 7 respondents (40%) are doing government jobs.

## Educational Level of Respondents



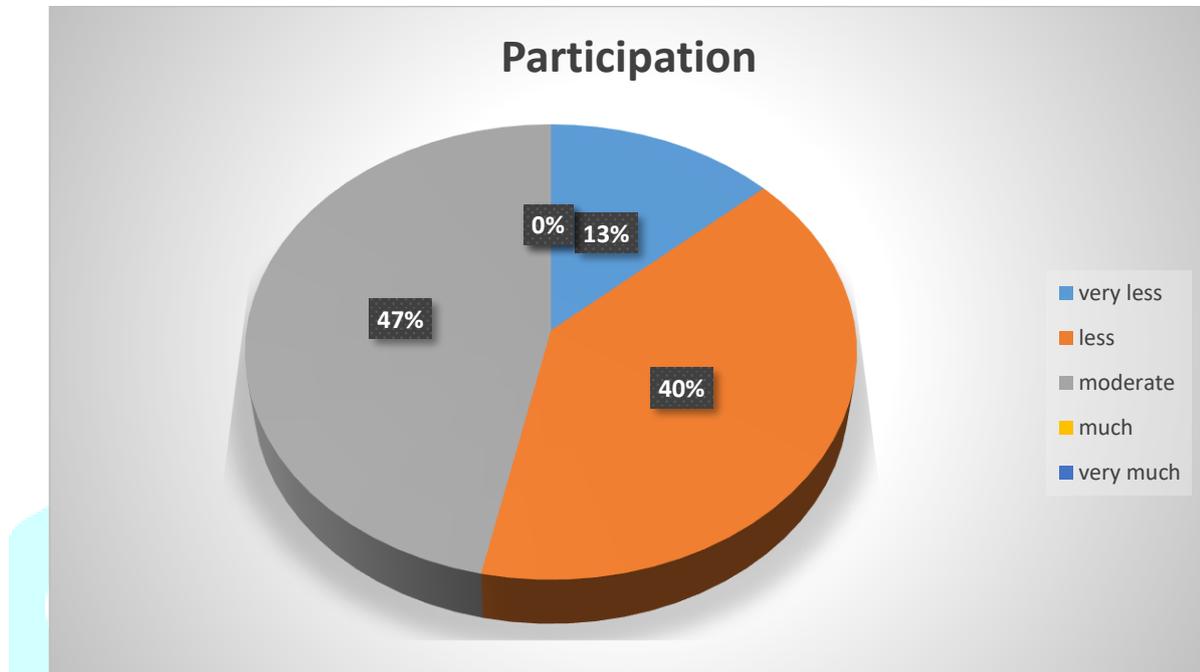
Graph 4-4: Distribution of Statistical Sample Education, source: Research Questionnaires.

Graph 4-4 shows the statistical data related to the degree and level of education of the sample population. According to the data obtained from the research questionnaires, out of 15 respondents, 3 persons (20%) of them are graduates of 12th grade. Likewise, 13 (73%) are bachelors, and 1 (7%) are in them is master.

### Analysis of Descriptive Data of Good Governance characteristic

In this section, the researcher intends to analyze the descriptive statistics obtained from the indicators of good governance in the department of justice of Balkh province. The present research examines the performance of the department of justice based on seven indicators of good governance which include participation, accountability, effectiveness and efficiency, transparency, justice, rule of law, and responsibility. In this section, the researcher provides descriptive statistics for each of these indicators.

#### Descriptive statistics related to Participation



The 4-5, graph is related to the Participation in the department of justice of Balkh province.

The above graph is showing the level of Participation of the department of justice of Balkh, according to the citizens of Balkh province's perspective. Based on The pie chart shows that 2 (13%) citizens of Balkh province said Participation in the department of justice is very less, 7 (40%) citizens of Balkh marked less, 7 (47%) citizens of Balkh indicated moderate. This means that there is not enough accountable environment among the department of justice of Balk employees with people.

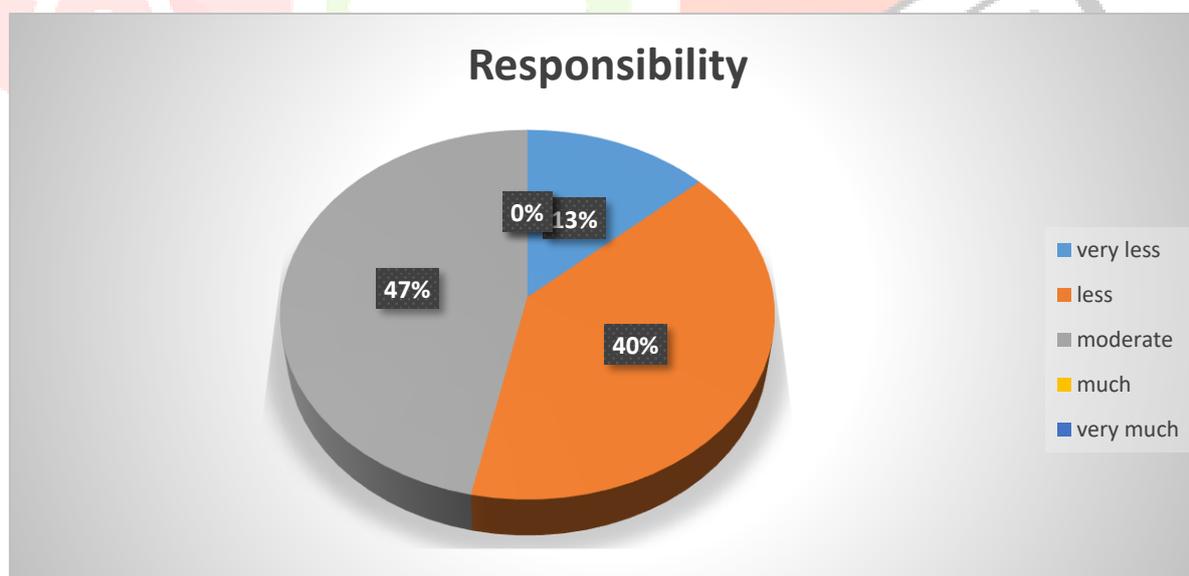
## Descriptive statistics related to Accountability



The 4-6, graph is related to the accountability in the department of justice of Balkh province.

The above graph is showing the level of accountability of the department of justice at Balkh, according to the citizens of Balkh province's perspective. Based on the pie chart shows that 6 (40%) citizens of Balkh province said accountability in the department of justice is very less, 7 (47%) citizens of Balkh marked less, 2 (13%) citizens of Balkh indicated moderate. As result, we conclude that in the department of justice accountability is very low.

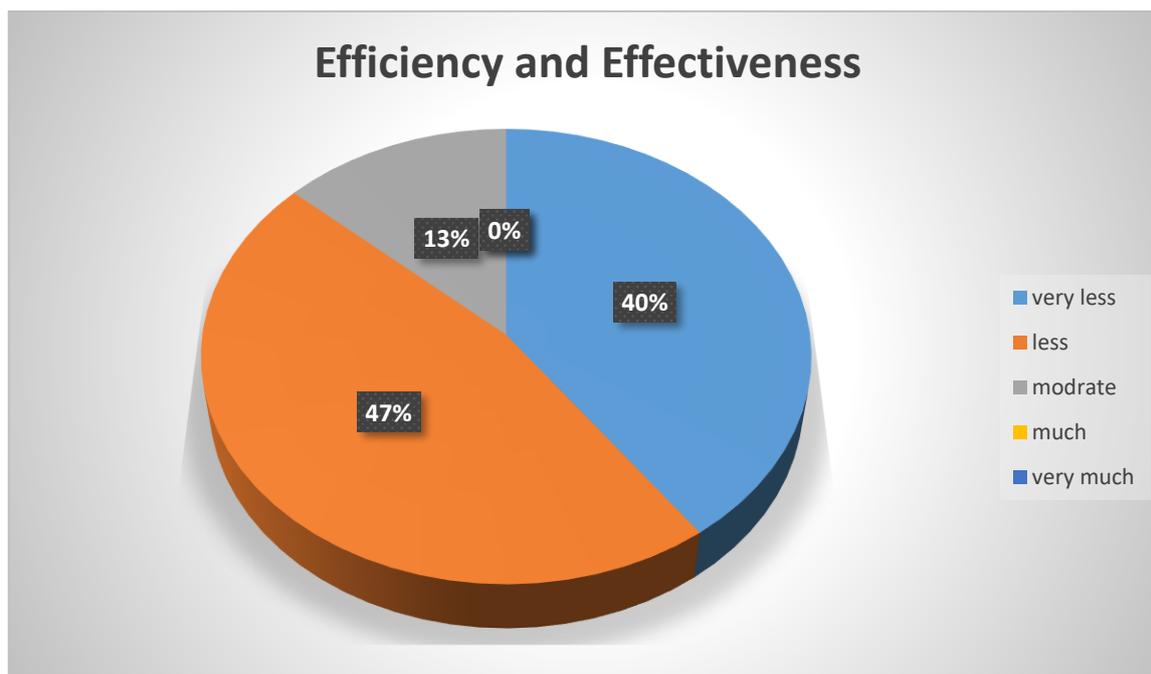
## Descriptive statistics related to Responsibility



The 4-7, graph is related to the responsibility in the department of justice of Balkh province.

The above graph is showing the level of responsibility of the department of justice of Balkh, according to the citizens of Balkh province's perspective. Based on The pie chart shows that 2 (13%) citizens of Balkh province said responsibility in the department of justice is very less, 6 (40%) citizens of Balkh marked less, 7 (47%) citizens of Balkh indicated moderate. As result, we conclude that there is not enough responsibility is in the department of justice.

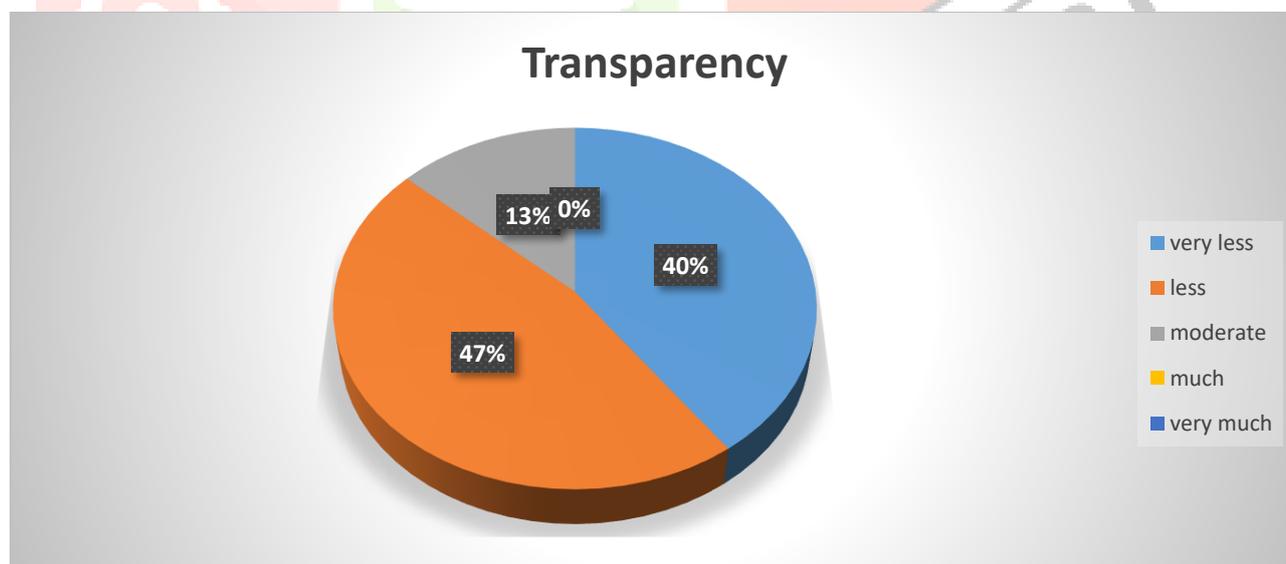
## Descriptive statistics related to Efficiency and Effectiveness



The 4-8, graph is related to the Efficiency and Effectiveness of the department of justice of Balkh province.

The above graph is showing the level of Efficiency and Effectiveness of the department of justice of Balkh, according to the citizens of Balkh province's perspective. Based on The pie chart shows that 6 (40%) citizens of Balkh province said Efficiency and Effectiveness in the department of justice are very less, 7 (47%) citizens of Balkh marked less, 2 (13%) citizens of Balkh indicated moderate. As result, we conclude that there is Efficiency and Effectiveness are low in the department of justice.

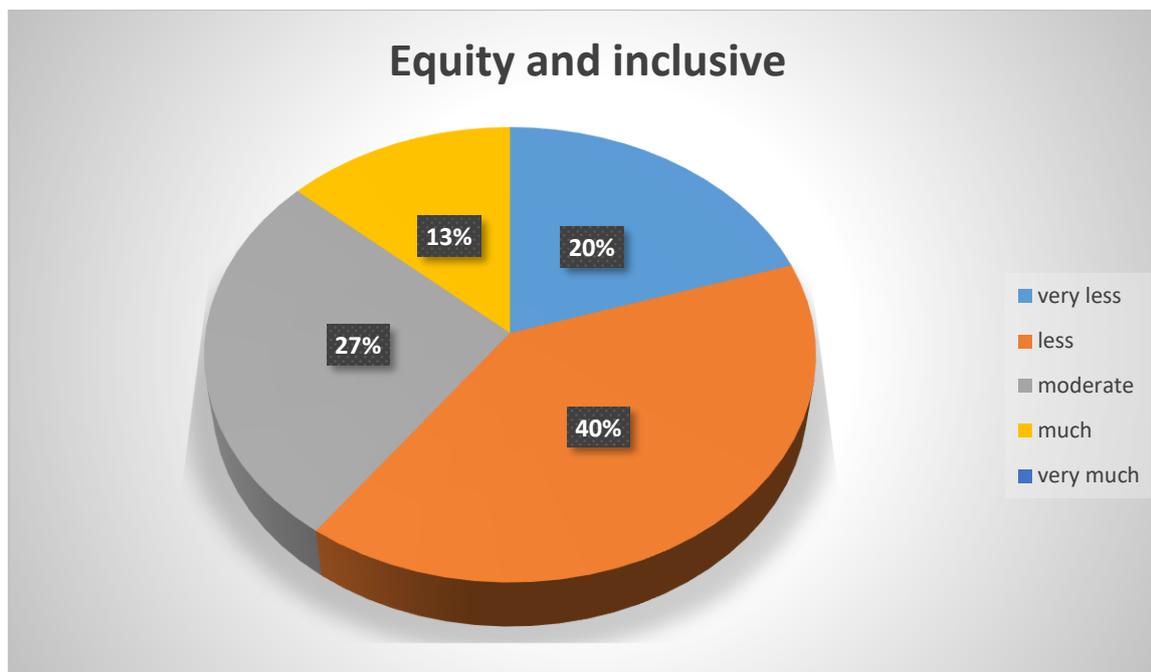
## Descriptive statistics related to Transparency



The 4-9, graph is related to the transparency in the department of justice of Balkh province.

The above graph is showing the level of transparency of the department of justice of Balkh, according to the citizens of Balkh province's perspective. Based on The pie chart shows that 6 (40%) citizens of Balkh province said transparency in the department of justice is very less, 7 (47%) citizens of Balkh marked less, 2 (13%) citizens of Balkh indicated moderate. As result, we conclude that there is transparency is low in the department of justice.

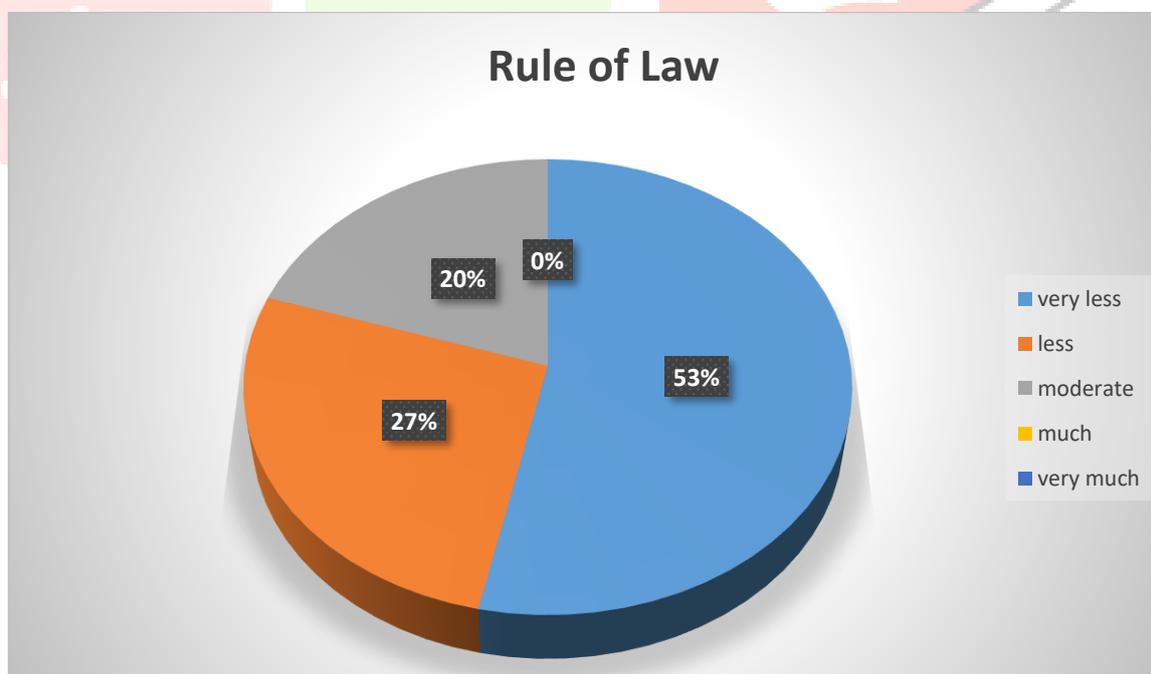
### Descriptive statistics related to Equity and inclusive



The 4-10, graph is related to the Equity and inclusiveness in the department of justice of Balkh province.

The above graph is showing the level of Equity and inclusiveness of the department of justice of Balkh, according to the citizens of Balkh province's perspective. Based on The pie chart shows that 3 (20%) citizens of Balkh province said Equity and inclusiveness in the department of justice are very less, 6 (40%) citizens of Balkh, marked less, 4 (27%) citizens of Balkh indicated moderate, 2 (13) citizen marked much. As result, we conclude that there is Equity and inclusiveness is near to moderate in the department of justice.

### Descriptive statistics related to Rule of Law



The 4-11, graph is related to the Rule of Law in the department of justice of Balkh province.

The above graph is showing the level Rule of Law of the department of justice of Balkh according to the citizens of Balkh province's perspective. Based on The pie chart shows that 8 (53%) citizens of Balkh province said doing work according to Rule of Law in the department of justice is very less, 4 (27%) citizens of Balkh marked less, 3 (20%) citizens of Balkh indicated moderate. As result, we conclude that there is using the Rule of Law is very low in the department of justice.

## Discussion of findings and results

The researcher has divided the research results into two separate sections. The first part is about the result of the demographic section of the respondents. In the next section, the researcher presented the results for the research questions.

### Results of respondents' demographic statistics

It is clear that the respondents' demographic data were obtained in the following cases: gender, age, occupation, and level of education. From the statistic of the fourth chapter, it is clear that (40 %) of the respondents were female and (60%) of the respondents were the man. As far as the age of the respondents is concerned, the study results show suggest that substantial participation occurs in both categories and age groups. It is also shown that young people under 35 years of age are more likely than those over 35 to fill out a questionnaire. Occupation shows (60%) respondents are working in a private company and remain (40%) employees are doing job in government jobs. Also, individuals in all classes and degrees engaged in completing and answering the study questionnaires as the outcomes of the research in the area of statistical educational standard of the sample. But the majority of the respondents are a bachelor's degree. Like from (100%) of the respondents (73%) of them have bachelor, and the remaining (24%) of them are finished 12 schools. This indicates a low rate of high-level education in the Balkh province.

As has been mentioned in the beginning that the goal of this paper is the Assessment of the performance of the justice department in the Framework of Good Governance Characteristics in Balkh province, Afghanistan. For this reason, I used a questionnaire. To assess the performance of the Balkh department of justice, According to a result of questionnaire of Good Governance characteristic, the overall level of performance of the department of justice in the framework of good governance characteristic according to citizens of Balkh province perspective is not at a satisfactory except for equality and inclusive, participation and responsibility.

## Conclusion

Justice aims to provide equal rights, opportunities, and facilities to all in a fair way. Balkh Department of justice likes other departments in Afghanistan affected by war and surfaces with many challenges, like weak in terms of institutional, material, and human capacity and damaged by mismanagement and corruption.

In this research paper, the researcher analyzes the descriptive statistics obtained from the indicators of good governance in the department of justice of Balkh province. The present research examines the performance of the department of justice based on seven indicators of good governance which include participation, accountability, effectiveness and effectiveness, transparency, justice, rule of law, and responsibility. In this section, the researcher provides descriptive statistics for each of these indicators.

The researcher used both secondary and primary data, seven good governance criteria were used in this research, in which equality and inclusiveness, participation, and responsibility were near to moderate and other characteristics of good governance were less in the department of justice. The results of the research in the performance of the department of Balkh justice indicate that the level of all good governance criteria is lower than the average. Therefore, it can be said that the performance of the department of Balkh justice in the framework of good governance standards from the view of citizens is unwanted.

From the above discussion, it should be clear that good governance is an ideal that is difficult to achieve in its totality. Very few countries and societies have come close to achieving good governance in its totality. However, to ensure sustainable human development, actions must be taken to work towards this ideal to make it a reality.

## Suggestions

The following suggestions are provided for the Balkh justice department as a research setting:

- ✓ As the results of the research show, citizens are not satisfied with the administrative behavior of department of justice employees and senior managers, so it is suggested to Balkh department of justice administration try to provide a clear and convincing answer to the people's legitimate demand and avoid postponing and delaying people's problems into the future.
- ✓ Increasing the Awareness among the judiciary, especially at the provincial level, of their legal responsibilities, as well as the public interest in holding court hearings in a public room.
- ✓ It is proposed to provide citizens with direct communication with the head and top managers of the department of justice, so people can report directly to the department of justice their problems and besides that, it increases people's satisfaction with the performance of the Balkh justice department.
- ✓ It is suggested to the Balkh department of justice to have specific programs in audio and video media that present the functions and outcomes decisions.
- ✓ To provide reports on its performance at the appropriate time (quarterly or semi-annually) for the citizens, So people may be aware of the justice performance on time.
- ✓ Whereas the findings of the study show that people are not satisfied with the transparency of the Balkh department of justice, it is suggested to the department of justice carry out its procurement processes and tenders transparently and under the law.
- ✓ To ensure the implantation of laws and regulations on the rights of citizens by its staff. It also ensures that people have access to justice laws and decisions, covers all segments of society, and upholds the principle of equality against laws and regulations.
- ✓ To create specific programs and channels to convey the demands of citizens to the head of the department of justice, and to fulfill those demands realistically.
- ✓ Guidance for judges on the importance of ensuring that the accused is informed of his rights under Article 8 of the Penal Code and Article 31 of the Constitution.

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