

Regulating Criminal Propaganda on Electronic Media in Light of The Afghan Legal Framework: An Analytical Study

Noor Anwar Farooqi

International Islamic University Malaysia
nnooranwar8@gmail.com

Mahyuddin Bin Daud

International Islamic University Malaysia
mahyuddin@iium.edu.my

Abstract

Criminal propaganda on electronic media is broadcast in contradiction to the Islamic, religious and national values and interests of Afghanistan. The legislation of Afghanistan pressingly criminal propaganda on TV and radio, especially the penal code, the law on crime against internal and external security, and mass media law, although the norms of these laws are general, there is no comprehensive definition and explanation regarding criminal propaganda on electronic media in the legal framework of Afghanistan. Defamatory, hate, false, fake, and rumour propaganda on electronic media are prohibited under the tents and rules of Islamic law and legislation of Afghanistan. This paper aims to explain and regulate criminal propaganda on TV and radio. So that prevent the malicious influences of criminal propaganda in Afghan society. This is because there are numerous forms of criminal propaganda on electronic media namely foreign dramas, films, movies, hatred and false declarations in Afghanistan. The legal issues of criminal propaganda on electronic media in the Afghan legal framework are analytical, explanatory, and illustrative. All legal sides of criminal propaganda have been analyzed and explained under the legislation of Afghanistan. However, international human rights legal documents, Islamic law, and Afghan legislation forbid criminal propaganda to broadcast on electronic media. Due to the non-implementation of law, unprofessionalism of electronic media staff, and weak governance criminal propaganda has been disseminated. Therefore, it is submitted that several powerful regimes have been demolished by broadcasting criminal propaganda on electronic media in Afghanistan. America is the first big and powerful country to broadcast criminal propaganda, it can even be called the father of criminal propaganda.

Keywords: Criminal Propaganda, Electronic media, Television, Radio, Afghanistan.

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* Corresponding
Authors:

Noor Anwar Farooqi

E-mail:

nnooranwar8@gmail.com

Introduction

Propaganda is the delivery of a message, news, or any other content. In general, communication means (electronic media) the transfer of information from one person or source to another person or source. Propaganda may have commercial, religious, military, cultural, social, and political goals, which are reflected in social media in addition to mass media, especially TV and Radio. It has political, commercial, religious, and cultural aspects. (Black, 1977, p. 92-104). Propaganda plays a vital role in influencing the public mind, especially in the current era when technology has reached its peak in terms of development and using these tools to achieve the goals set by propaganda, although the tools are not bad in themselves, the users of the tools are bad. Propaganda has a long history in human history and has been used in both negative and positive ways since before. For instance in spreading the Christian faith in Europe. (Taylor, 2013, p.1-360). In addition, every Muslim must preach the commandments of Allah (SWT) and His Messenger (SAW) to others. (Rahim, 2001, p. 670-674).

All the governments of the world now achieve their goals from public opinion utilizing propaganda through the media; but this can be done by those countries that have qualified academics, scholars, specialists, experienced personnel, and propagandists in high-level government civil and non-civilian institutions and make good and regular use of them to protect their national interests; because they have written such scientific works for their academic class, in the light of which the next generation can nurture and strengthen their national interests. (Niazi, 1397AH, p. 1).

Electronic media has a full effect on benefiting from the propaganda influence, on the positive learning of the society, and also on the helplessness of the innocent (pure) people of the society; but the good electronic media is the one that contributes to the positive change of the society and the society informs about its fundamental human rights.

Hence, all international human rights and national legal documents regulate propaganda through electronic media for public security protection. Broadcasting of propaganda through electronic media often harms public security, the public welfare of society, and human rights. Therefore, the International Convention on Civil and Political Rights, Universal Declaration of Human Rights, and International Declaration on Human Rights in Islam guarantee and ensure public security, public welfare, and fundamental rights of all human beings, and those speeches

and statements that broadcast electronic media and harm public security, human status, freedom, human dignity or fundamental human rights, are considered criminal. For instance, the Declaration on Human Rights in Islam is mentioned in article (22), paragraph (b).¹ Besides this, the International Convention on Civil and Political Rights is mentioned in article (20), paragraph (1).²

Furthermore, the Universal Declaration of Human Rights is mentioned in Article (20), paragraph (1).³ In addition to this, many other international human rights legal documents prohibit the broadcasting of hostile propaganda through electronic media. Such as the European Convention on Human Rights, the Council of Europe, the Organization for Security and Co-operation in Europe, and Commission on Human Rights, and the Human Rights Council. (Mohsen, 2022, p. 157-184).

National Laws are the product of social life and in its general sense, it is the way to separate civil life from the non-civil life of humans. In fact, among the important goals are the development and establishment of regulations by the government and legislators, the growth and development of society, the regulation of social communications of individuals, and the creation of justice among people. (Advertising Laws and Regulations of Iran, 1392AH, 7). Therefore, all countries have national laws to regulate electronic media broadcasts and prohibit defamatory, rumours, baseless, hatred, and criminal (aggressive) propaganda. One of them is Afghanistan, Afghanistan has a legal system to ensure public security and the fundamental rights of its citizens, such as the Constitution, Penal Code, Law on Crimes against Internal and External Security, Mass Media Law, the law on the propagation of virtue and prevention of vice, etc. Those propaganda speeches that are broadcasted through TV and radio and harm the public security, order, and morals of the Afghan society are considered criminal. This article covers all aspects of the regulation of criminal propaganda on

¹ “ Every human has the right to stand up for the truth and advocate what is right, and propagate those programs which are good, and inform what is wrong and evil by the rules and regulations of Islamic sharia.”

² “Any types of propaganda for war and violence shall be forbidden according to the law.” See Schwelb, E. (1968). Civil and political rights: The international measures of implementation.”

³ “Every human being has the right to freedom of opinion and expression. This right includes the freedom to have beliefs and opinions without (worry) about interference (and disturbance) and the right to search, receive, and publish information and thoughts through any media without comments and borderline.”

TV and radio in light of the legal framework of Afghanistan. For instance, the definition of electronic media and criminal propaganda, the short history of propaganda and the effect of political regimes, and the regulation of propaganda from the perspective of various legislations of Afghanistan.

Statement Problem of Research

The development and plurality of electronic media is generally a new issue in Afghanistan. That is, it turns back to the year (2001), especially in the field of private electronic media. The first state radio (Kabul radio) broadcasts were started in 1925 and the first state TV dissemination began in 1978. (Köroğlu, 2011, p. 1-13). The broadcasting of electronic media has been a controversial and conflicting issue from the start and still now. (Liwal, 2021, p. 20-29). State electronic media often is sovereign under the statesmen and not policy. Directly and indirectly, has been broadcasted criminal propaganda. For example, foreign films, dramas, films, and serials are important tools of criminal propaganda. (O'Shaughnessy, 2024, p. 1-272). In other words, the theory of media authoritarianism has been applied to the government's electronic media in Afghanistan. (Siebert, Peterson, & Schramm, 1956, p. 1-29). Often Islamic and national values have not been considered in their broadcasting. Therefore, it is submitted that the state's central information apparatus has not respected the legislation.

Moreover, after 2001, in several cases, private electronic media broadcasted in contradiction to Islamic and national values, interests, and culture. Also, national security, public order, fundamental rights and freedom of individuals, and privacy have been harmed by the dissemination of electronic media. Despite this, in the case of Afghanistan, foreign electronic media such as BBC, VOV, DW, AZADI RADIO, AFGHANISTAN INTERNATIONAL TV, AMUTV, IRANIAN, AND PAKISTAN ELECTRONIC MEDIA have broadcasted criminal propaganda against Afghanistan. (Rafi Tabee, YouTube, 2023). Thus, it is submitted that in numerous cases electronic media cannot pay attention to Islamic, international human rights legal documents, national legislations, and ethical rules of broadcasting.

Another big problem is that the Afghan legal framework regarding electronic media broadcasting is vague, complex, and unclear. Several times the staff of electronic media can't understand the rules and regulations of dissemination. What is criminal and what is not criminal? On top of that, there are a few legal rules regarding criminal propaganda on electronic

media namely two articles in the penal code and one article in the mass media law. Although it is mentioned in article (52) of the mass media law of Afghanistan (2009) that the government should impose punitive rules on media violations, this law has not been made and approved so far. Recently, the Islamic Emirate of Afghanistan also warned all media based on Article 17 of the law on the propagation of virtue and prevention of vice that they will not broadcast propaganda against Islamic and national values, but Islamic and national values are not defined in the law. Based on this, it is argued that there is no comprehensive definition and explanation of criminal propaganda in the Afghan legal framework. In addition to this, weak governance and non-enforcement of the law have caused electronic media propaganda to pose problems to Afghanistan's political stability, public opinion, and social prosperity.

Questions of Research

1. How do Islamic scholars define propaganda and what is its ruling?
2. How to define criminal propaganda in the Afghan legal framework?
3. What are the effects of criminal propaganda on Afghan political regimes?
4. Whether some regulatory legislation is available to pressingly regulate criminal propaganda in Afghanistan

Objectives of Research

1. To explain and analyze criminal propaganda from the insight of Islamic scholars.
2. To explore the definition of criminal propaganda in the Afghan legal framework.
3. To examine and analyze the influences of criminal propaganda on Afghan political regimes.
4. To describe and analyze the existing regulatory laws of criminal propaganda in Afghanistan.

Significance of Research

Since electronic media can play an interesting role in training, strengthening, educating, informing, destroying, and conquering public opinion, they are also very effective and influential tools for intellectual

warfare that nothing else can take place in this way. Especially in backward and illiterate communities (Afghanistan), a propaganda war is more useful and effective than a military war, because the interested country reaches its target without spending or killing. Living examples are accusing the US of Iraq having nuclear weapons based on the propaganda of the electronic media, as well as the conflict in Libya and the destruction of the International Trade Center, and accusing it of Al-Qaeda and the invasion of Afghanistan. This is all that is broadcast in the electronic media as propaganda. (Altheide, & Grimes, 2005, P.617-643).

Currently, a very good argument has come out about the psychological and propaganda war in current politics. It says that the psychological and propaganda war is a war with the enemy's mind and not with his blood and body. Therefore, the best tool for this war is electronic media. Currently, the United States has invested only 444 billion dollars in information technology and is the first information country in the world. In this regard, Western Europe comes in second and third place with 300 million and Japan with 101 million. (Linebarger, 1951, P. 19-47). Because the main purpose of this war is to weaken and destroy the spirituality, mentality, thoughts, position, stability and resistance of the opposite side.

Methodology of Research

The research is going to be based on the library and theory. The approach of the study is descriptive, analytical, and explanatory. The related legal issues of criminal propaganda on electronic media first is mentioned in the basic source namely the legal framework, Quranic verses, and prophetic hadiths. If the data is not found in first-hand resources, in this case, the researcher can refer to second-hand resources such as books, articles, online journals, websites, news, publications of press and media. The author can place the ideas and opinions of scholars under the norms and standards of research. Besides this, the legal issues regarding criminal propaganda are mentioned in the legislation of Afghanistan. After that, the researcher elucidates and analyzes the stance of the Afghan laws. The purposes of electronic media in this research are TV and radio. The main discussion is the legal rules and regulations of Afghanistan regarding criminal propaganda on TV and radio.

Literature Review of Research

Criminal propaganda on electronic media has been a paramount topic in Afghanistan since before; therefore, the perpetrators of this act were generally proposed strict punishment in the Afghan legal system.

Regarding the legal issue, the laws of Afghanistan are generally divided into two categories one is the laws that have a relative explanation of criminal propaganda namely **the penal code of (2017), the law on crimes against internal and external security and public order of (1987), and the mass media plan(1398AH)**. Secondly, the laws that have connotations and indirect provisions for criminal propaganda such as the **Constitution of (2004), the Mass Media Law (2009), and the Law on Propagation of Virtue and Prevention of Vice of (2024)**. However, these laws have vague, complex, unclear, and connotation provisions and orders of criminal propaganda. Therefore, these resources will be used as the first-hand in this research.

In Afghanistan, there has been no specific topic in the name of criminal propaganda on electronic media from the perspective of the Afghan legal system. Concurrently, some articles and books have been written in which the propaganda has been discussed.

Title of Article “Media crimes in Afghan law and international documents” published in 2020 by Ahmad Faiq Hazem (Jahan University, Kabul, Afghanistan). The Article was written in Dari language (جرایم رسانه (ای در حقوق افغانستان و اسناد بین الملل). This is a comparative study of the media crimes of Afghanistan, the legal system, human rights, and legal documents from a research point of view. In this article, two types of media crimes have been discussed, media crimes against individuals, security and public order crimes. This is a comparative study that generally examines media crimes from the perspective of Afghanistan's legal system and human rights legal documents. In this article, two types of media crimes are generally discussed, one is crimes against individuals and the other is against the security and public orders. In this article, propaganda is considered one of the crimes against security and public order. The whole study is only one page and studied in light of just one law (the law on crimes against internal and external security and public order).

Title of book (Media and Society), published 2019 by Muhammad Khan Niazi, (Scientific and Investigative Work for Academic rank of Professor, Sheikh Zayed University, Faculty of Journalism, Khost,

Afghanistan). It is written in Pashtu language (رسنی او ټولنه). In this book, propaganda is discussed in light of journalism in detail.

Title of book Mass Media Law Published in 2021 by Mohammad, Qassim Rahmani, (Hamed Resalat Publishing, Kabul, Afghanistan, Edition:10).

This was written in the Dari language (حقوق رسانه های اجتماعی). In this book, several issues were discussed, particularly media crimes. In this book, propaganda is considered one of the crimes against security and public order. However, the discussion is not comprehensive and detailed.

By the way, there is no exclusive topic in the name of criminal propaganda on electronic media in the Afghan legal framework.

Concept of Criminal Propaganda

Regarding the definition of criminal propaganda, numerous explanations have been provided by legal documents and scholars. However, here we would like to elucidate the meaning of criminal propaganda from the perspective of scholars and the Afghan legal framework.

According to the sight of Dr Zakir Naik criminal propaganda is defined as “Any broadcasts and programs that are disseminated in contradiction of the Islamic Sharia on electronic media are called criminal propaganda.” (Naik, Twitter, 2023) Based on this, it is argued that all the speeches, statements, information, ideas, rumours, baseless, messages, expressions, films, movies, dramas and slogans that are distributed on TV and radio in contrast to the tenets and principles of Islamic Sharia are criminal propaganda. Despite this, Naik says “It is the responsibility of each Muslim to prevent propaganda against Islam.” (Naik, YouTube, 2023) Therefore, it is submitted that if the propaganda is following Sharia tenets and rules, it is a legitimate and permissible action. For example, calling and inviting people to the way and approach of Allah (SWT) and propagating the provisions of Sharia is not deemed criminal propaganda.

Allah (SWT) says in the holy Quran about the responsibility of Muslims to propagate the rules and regulations of Islam and invite individuals to the good deeds and prevent bad deeds (criminal actions):

"وَلْتَكُنْ مِنْكُمْ أُمَّةٌ يَدْعُونَ إِلَى الْخَيْرِ وَيَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ
عَنِ الْمُنْكَرِ وَأُولَئِكَ هُمُ الْمُفْلِحُونَ"

"Let there arise out of you a band of people inviting to all that is good, enjoining what is right, and forbidding what is wrong: They are the ones to attain felicity. (Surah Al-Imran Ayat: 104).

Under this verse, each Muslim must propagate and spread the right speech and news on electronic media. On top of that, Muslims must criticize the incorrect politics, strategies, policies, and plans of the rulers of the time. This is because it is considered an obligation of the Islamic Ummah, not a right.

Under the criminal framework of Afghanistan, criminal propaganda on electronic media is defined as: " Any statements and spreading on electronic media that are harmed Islamic values and national interests and violates the public security and order is deemed criminal propaganda." (The Law of Crimes against Internal and External Security of Afghanistan, 1987, Article 7 and 8, and The Penal Code of Afghanistan, 2017, Article 243).

By this definition, it is argued that criminal propaganda is propagating on electronic media against Islamic moralities, adab (etiquette), the qualities of features of good Muslims, Maqasid Sharia, and pillars of Islam. Alongside this, broadcasting in contradiction of national sovereignty and territorial integrity, incitement to illegal acts or crimes, a provocation to create enmity, disclosure of government secrets, disruption in the judicial proceedings and the publication of the secret meetings of the parliament, demoralization amongst the population, and violates the fundamental rights and freedom of the citizens. Based on this it is submitted that criminal propaganda includes hate, defamatory, false, fake, and rumours declarations.

Definition of Electronic Media

According to article (3) and clause (1) of the Afghan mass media law electronic media can be defined as: "Any instruments to broadcast

statements, messages, news, information, and issues by using TV⁴, radio⁵, internet, and cable network⁶ is called electronic media.” (The Mass Media Law of Afghanistan, 2009, article 3).

12 Regulating Criminal Propaganda the Constitution Perspective

The first law is the constitution of Afghanistan in 2004, article (34) guarantees and regulates the freedom of speech on electronic media. Based on this article, “Every Afghan shall have the right to express thoughts through speech, writing, illustrations as well as other means by provisions of this constitution.” Besides this, another clause of this article has this kind of clarity. “Directives related to the press, radio, and television as well as publications and other mass media shall be regulated by law.”

According to the first paragraph of this article, every Afghan has the right to announce and broadcast his thoughts and speech through various means, taking into account the provisions of the law. In the second paragraph, it gives the media the right to broadcast by the provisions of the law. Therefore, on this basis, it is argued that media and media sector employees must not be broadcast against Islamic and national values, human rights, public order and security, culture, national interests, and other interests in Afghanistan. That is, no one is allowed to propagate against nationally accepted spices. Therefore, it is submitted that this article is a standard and comprehensive article from the point of view of Islamic Sharia and democratic principles, because freedom of speech and receiving and publishing information has a legal framework. If this issue (freedom of speech) is left out of the legal framework, it creates chaos, unrest, and anarchism in the society, which does not match with Islamic and democratic principles. Islamic law is not unrest and anarchism and democracy as well.

According to the preceding details, broadcasting propaganda statements on electronic media creates unrest, anarchism, and insecurity. Furthermore, threatens Islamic and national values and accepts spice, public order, security, and the fundamental rights of human beings in a

(⁴)Television: is a means for audio-visual mass media. See article 3, clause 18, The Mass Media Law of Afghanistan.

(⁵) Radio: is a means and link for audio mass media. See article 3, clause 17, The Mass Media Law of Afghanistan.

(⁶) Cable Network: is audio and visual mass media instrument that broadcasts national and international informational, educational, cultural, and entertainment programs to its subscribers. See Ibid, article 3, clause 19.

community. Based on this, the Constitution is the paramount and basic rule for the regulating of broadcasting propaganda on electronic media. Electronic media is obligated to broadcast according to the rules and regulations of the Constitution and cannot publish such propaganda which is contrary to Islamic and national values and public interests.

Regulating Propaganda in The Light of Mass Media Law

According to article (34) of the constitution of Afghanistan in 2004, the mass media law was approved in 2009, in (54) articles for regulating mass media broadcasting and publishing in Afghanistan. In various articles of this law, the regulation of activities and broadcasts of the electronic media has been discussed and the electronic media has been obliged to carry out the broadcasts in consideration of the Islamic Sharia and democratic principles. Article (45) of the mass media law has discussed prohibited broadcasts on electronic media in different clauses. Such as 1. "Works and materials those are contrary to the principles and provisions of the holy religion of Islam." 2. "Works and materials which are offensive to other religions and sects." 5. "Works and materials which are contrary to the Constitution and are considered crime by the Penal Code." 6. "Publicizing and dissemination (promoting) of religions other than the holy religion of Islam." 8. "Works and material that harm psychological security and moral wellbeing of people, especially children and adolescents."

Therefore, it is argued that this article's provision is general and needs more explanation. It can be said, that many paramount topics have been discussed in this article and electronic media have been obliged not to broadcast against the Islamic Sharia and the legal structure of Afghanistan. Furthermore, it is emphasized that the media must pay special attention to the psychological security and moral well-being of people in its broadcasting. Hence, it is submitted that publishing propaganda programs and statements are prohibited on electronic media in Afghanistan. Especially the propaganda that is against the legal framework of Afghanistan and Islamic Sharia, such as insulting other religions, promoting other religions, destroying Islamic and national interests, values, and culture, creating various divisions, discriminations, and prejudices, or such propaganda that will harm the mental security and moral well-being of the community.

Regulating Criminal Propaganda in The Light of Law on Access to Information Law

For the best application and development of psychological and propaganda warfare, only two parts are needed, one of which is information and the other is communication media. (Nietzel, p. 59-76). Now if we understand what information is? Information is the most important source for planning, launching, and conducting of propaganda war. If you don't have information first on a subject, then everything is useless. In addition to this, the access to information law of Afghanistan defines information in this way: Information: Any type of documents and recorded or registered information including written, audio, visual, sample, or model. (The Law on Access to Information of Afghanistan, 2019, Article 3). After defining and value of information, now we have to define communication media. The media that are used in national or strategic operations are of two types, one is the soft media and the other is the fast media. Soft media such as magazines, books, newspapers, speeches, etc.. is called soft media because it takes a long time and distance to reach the message. Fast media are those media that have a high transmission speed of messages such as; Radio, TV, social media, and many more. (Lievrouw, 2009, p. 303-325).

In this regard, the government apparatus should coordinate with the media. The use of media, policies, and propaganda should be in the hands of the central apparatus of the government. In this regard, the intelligence apparatus of a state has a very important role. Currently, there is a very good reasonable about the psychological and propaganda war in current politics. It says that the psychological and propaganda war is fighting with the enemy's mind and not with his/her blood and body. (Taylor, 2013, P. 1-360).

Based on the aforementioned details, it is argued that information is the basic and needed resource for propaganda, without information, propaganda is nothing and can not influence the people and communities. Therefore, the law on access to information in Afghanistan regulates the information to keep the independence, national sovereignty, territorial integrity, public security, political, economic, and social relations with other countries. Additionally, the law prohibits the disclosure of information that endangers people's welfare, the privacy of an individual, legitimate commercial interests, private properties, bank accounts, human rights, and other national interests and accepted spices. (Law on Access to

Information, 2019, Article 16). Namely, the electronic media in Afghanistan do not have the right to access the information that is used for broadcasting propaganda.

Regulating Propaganda in The Light of Mass Media Policy Plan

The mass media policy plan of Afghanistan has been established based on the ruling of Part 1, Paragraph (3) of Article 41 of the Mass Media Law in (1398AH). The goals of this policy are: 1- Setting and regulating the broadcasting policy of the country's mass media; 2-providing the ground for the free activity of mass media; 3 Strengthening the freedom of speech by taking into account the Afghan Constitution, the law of mass media and international commitments of Afghanistan; 4 Enlightenment of public minds through mass media to strengthen and develop democracy, national sovereignty, rule of law, citizenship rights, social justice and national unity in the country. (Mass Media Policy Plan of Afghanistan, 1398AH, Article 1-2).

Additionally, there are many rules and regulations for electronic media to organize the activities, programs, and broadcasts in the mass media policy plan of Afghanistan. For instance, electronic media refuse to broadcast works and materials (statements) that are contrary to the principles and rules of the holy religion of Islam, to propagate and promote religions other than the holy religion of Islam, and materials that cause insults to other Deens and religions. (Ibid, Article 1). Despite this, electronic media do not publish and broadcast such programs and materials that harm the psyche of the people in the society and other materials that are prohibited (propaganda) by the laws of the country. (Ibid, Section 7, Article 3). Furthermore, electronic media should refrain from publishing and broadcasting propaganda that disturbs the psychological immunity of people. (Ibid, Section 7, Article 5).

As the preceding discussion illustrates, the main purpose of the mass media policy plan is to regulate electronic media broadcasts and illustrate the public mind of people by their publishes in society. As well as electronic media has a heavy obligation to keep the national values, interests, and spices of the Afghan community. Electronic media should pay special consideration to the fundamental rights of individuals, ensure the social justice of people, and design and publish such programs in their broadcasts that will lead to the unity of Afghans. Thus, it is argued that this

policy is the paramount legal document for regulating electronic media broadcasts in the legal framework of Afghanistan.

Regulating Propaganda in The Light of Ethical Rules Code

Journalistic ethics is an inseparable part of journalistic principles. As much as it is necessary to observe the principles of media law, it is necessary to pay attention to the ethical principles of journalism. Therefore, after months of discussions with journalists, the institutions supporting the free media of the country approved the ethical standards of journalists in Kabul on Wednesday (25/5/2016). (Professional ethics guidelines for journalists, 2016).

Based on these ethical principles and standards, electronic media activities and broadcasts are regulated, as a result of which Islamic and national values, fundamental rights of humans, and public order and security are protected. Consequently, it is submitted that if electronic media and journalists observe and follow ethical rules, they will not broadcast propaganda. For example, journalists and electronic media must be impartial and broadcast information that is factual and beneficial to society.

Regulating Propaganda in The Light of Penal Code

As we know, in all countries for better security and stability, various laws have been established with the basic and main purpose regulating of all affairs and phenomena which are created in their areas. One of these laws is the penal code/criminal law. Afghanistan also enacted a new penal code on May 15, 2017, to better organize its affairs. This law was passed to regulate and guarantee social justice, societal stability, and public order and security. For better understanding, some important objectives of this law are mentioned here. The objectives of this law are: 2-To guarantee observance of provisions of the Constitution and other laws; 3- To ensure criminal justice and maintain public order and security; 4- To protect independence, national sovereignty, and territorial integrity of the country; 5- To prevent the commission of crime and to combat against crimes; 7- To guarantee observance of human rights and fundamental freedoms of individuals. (Penal Code of Afghanistan, 2017, Article 3).

Therefore, it is argued that the main purpose of this law is to protect the rights and freedoms of the people as a whole; To protect social justice, order, stability, and security, and to fight against all threats and dangers that

threaten the social stability of the country. One of the dangers and threats is propaganda that is spread through electronic media and as a result threatens people's rights, freedom, security, prosperity, happiness, and peace. In other words, the social stability and order of the country are facing a big threat, it may even lead to the downfall of the ruling regime and system in the country. For that reason, it is submitted that spreading and publishing propaganda statements on electronic media is prohibited and considered a felony by the penal code of Afghanistan. The penal code of Afghanistan has the following explanation regarding propaganda statements and broadcasts on electronic tools, devices, and other communications platforms.

(1) "If a person, during the war, by publishing false news, declarations, or statements deliberately propagandizes in writing or orally, or by any other means to support the enemy in a way that harms the defensive power of the country or military operations of the armed forces or causes chaos or demoralization amongst the population, the perpetrator shall be sentenced to long imprisonment up to 10 years." (2) "If the crimes stated in paragraph (1) of this article are committed through telecommunication means or other electronic devices with a foreign State or anti-Afghan government armed forces in war with the government of the Islamic Republic of Afghanistan, the perpetrator shall be sentenced to long imprisonment." (3) "If a person commits the crime stated in paragraph (1) of this article in conditions other than war shall be sentenced to medium imprisonment." (Ibid, Article 243).

In this article, the main discussion is about publishing war propaganda on electronic devices and platforms. That is, if a person spreads such propaganda through electronic media and other electronic communication devices in a state of war, it causes damage to the defensive power and military operations of Afghanistan forces or causes confusion and disheartenment among the people is considered a felony. In addition to this, this article also discusses the propaganda that is broadcast through electronic communication devices without fighting, this type of propaganda is also considered a crime, but compared to the above situation, the crime is mild (misdemeanour) and the punishment is also less (more than 1 year up to 5 years).

As well as Article 262 of the Penal Code of Afghanistan regarding the dissemination of propaganda for Ordering Violations during Gathering, Strikes, and Protests is as follows. "If the participant of gatherings, strikes, demonstrations or protests, disseminates rumours and baseless propaganda

that create horror in the society, shall be sentenced to medium imprisonment (more than 1 year up to 5 years).”

Additionally, the penal code of Afghanistan regulates commercial and business affairs. Regarding this issue, the penal law has such a description. Article 753 of the Penal Code regarding the dissemination of propaganda for illegal competition in business and trade matters is as follows. “A trader who commits the following act with bad faith, according to circumstances shall be sentenced to a cash fine of 50,000 AFN up to 1,000,000 AFN. “False propaganda on source or attributes of goods or about the importance of his/her business to attract customers of another trader who is selling the same goods, and also falsely claiming certificate or rewards;”

Despite this, Article 766 of the Penal Code regarding the dissemination of propaganda for Falsification in Commercial Transactions is as follows: “A person who intentionally, through spreading fabricated news of events, propaganda, or any other falsified means, becomes the cause for lowering or raising the price of goods or bonds, or a person who conceals any goods ready for consumption or becomes the cause for such an act, shall be sentenced to short imprisonment or cash fine from 30,000 up to 100,000 AFN.”

As a result of the above explanation, it is argued that the Afghan Penal Code generally discusses four main topics regarding the organization of propaganda. These four main and basic parts are: (1) Broadcasting propaganda during war. (2) Broadcasting propaganda without war. (3) Spreading propaganda during gatherings, strikes and demonstrations. (4) Dissemination of propaganda for illegal competition in business and trade matters and also distribution of propaganda for Falsification in commercial transactions. Thus, it is submitted that no one including electronic communication devices, or tools, media platforms, and employees of the media platforms sector can disseminate propaganda in Afghanistan. If they broadcast propaganda programs and statements, So in this case they commit a crime and the perpetrators shall be punished according to the rules and regulations of the penal code.

Regulating Propaganda in The Light of Law on Crimes Against the Internal and External Security Perspective

Despite the Penal Code, the Law of Crimes against Internal and External Security of Afghanistan regulates the dissemination of propaganda on

electronic media. This law was enacted by the Revolutionary Council of the Democratic Republic of Afghanistan by decree No. 153 dated Oct 1987, in two chapters and thirty articles. This Law has various rules and regulations about the organization of propaganda broadcasting and statements on electronic media, the explanations are as follows.

Article 7 of this law states regarding the dissemination of propaganda against the government: 1. "if a person to ensure his/her interest and weaken sovereignty intentionally broadcasts false declaration and statements or verbally/in written in any forms propagandize against or possess such publications, he/she shall be sentenced to medium imprisonment." 2. "If the acts mentioned in this article lead to a breach of the peace (public disorder) and dismantling routine activities of state agencies, institutions, organizations, and other entities or leads to demolitions, ravages, and fires or that such acts were as a result of communication or other means of contact with anti-government groups or with any foreign hostile state, the perpetrator shall be sentenced to long term imprisonment." 3. "If the above acts lead to public disorder or human loss, the perpetrator shall be sentenced to continued imprisonment or the death penalty."

Additionally, the law on Crimes against Internal and External Security of Afghanistan regulates War propaganda. Regarding this issue, article 8 has such a description. "Any person who makes any kind of proclamation for war shall be sentenced based on the circumstances to medium imprisonment."

Furthermore, Article 11 of this law, mentioned and discussed the inflame of violation of national, religious, and racial equality of rights by publishing and broadcasting propaganda on electronic media. 1. "A person who proclaims intending to motivate national, racial. Religious, tribal, and linguistic disputes and differences he/she shall be sentenced to medium imprisonment up to three years." 2. "In case such activities cause insurrection or affect social order among communities, the perpetrator shall be sentenced to long imprisonment." Also, Article 27 of this law, is mentioned in the case of not informing about the publication of propaganda against the internal and external security of the country. "If a person obtains authentic information or knows about the dissemination of propaganda, and he/she does not report this activity to the related organs of public rule, he/she shall be sentenced to medium imprisonment." In addition to this, in Article (28), hiding propaganda is considered a crime from the list of crimes anti- government and national interests. "If a person, without prior

agreement with the perpetrators, has authentic information about the foreseen propaganda and hides such information, he/she shall be sentenced to medium imprisonment.

From the illustration of the overhead articles of the Law of Crimes against Internal and External Security of Afghanistan, it is argued that the position of the Law of Crimes Against Internal and External Security of Afghanistan regarding the organization of propaganda is very strict, so from 1987 until now, all regimes and governments have implemented the provisions of this law. In this law, there is a general discussion on five important cases and topics related to the organization of propaganda, and anyone (electronic media employees, journalists, reporters of communication media...) who commits these five cases shall face severe punishments. These five cases are:

(1): Anti-state propaganda: Any person who deliberately spreads anti-state propaganda (false propaganda, provocative propaganda, biased propaganda, propaganda declaration) orally or in writing through various electronic media and devices. This person shall be sentenced to one to five years imprisonment.

(2): Propaganda of war: Any person who broadcasts programs and speeches through electronic media that cause war shall be sentenced to imprisonment for one to five years.

(3): Broadcasting propaganda against national, religious, ethnic, linguistic, and racial equal rights: The meaning of this article is: Anyone who broadcasts propaganda against national, religious, tribal, linguistic, and racial equal rights among people and tribes through electronic media in Afghanistan, or intending to incite hatred and enmity it shall be counted crime. Besides this, either based on national, religious, ethnic, linguistic, racial, or kinship relations, propaganda statements are made through the electronic media to limit the rights of the citizens of Afghanistan or to achieve different divorcements and differences between these citizens. In these cases, the perpetrator shall be sentenced to imprisonment for up to three years. However, the severe cases mentioned in the second clause of this article mean that if the propaganda broadcasted in the first clause causes confusion, violence, anger, sadness, and noise among the residents of Afghanistan, then, in this case, the perpetrator shall be imprisoned from five to sixteen years.

(4): Propaganda that is against the domestic and external security: This means the person who spreads propaganda against the domestic and external security of Afghanistan through electronic devices, and another

person has reliable information and evidence about it but still does not inform the relevant responsible bodies and organs about the propaganda. In this case, this person shall be sentenced to imprisonment for one to five years.

(5): Hiding the propaganda that is against the state and national interests: This article mentions any people who broadcast propaganda against the Afghan state and the national interests of Afghanistan and other persons who have information and notice it, but he/she does not share this information with the accountable persons and organizations, but hides the statements of propaganda, then this person shall be also sentenced to imprisonment for one to five years.

Regulating Criminal Propaganda in Light of The Law on Propagation of Virtue and Prevention of Vice

This law was approved on July 31, 2024, in (35) articles, (110) pages, four chapters, and (10) Recommendations by the supreme leader “Amir al-Mu’minin” of the Islamic Emirate of the Sheikh Al-Qur'an, and Hadith Mawlavi Hibatullah Akhundzada (May Allah Almighty Protect Him). This law addresses various issues and matters such as women's hijab, men's covering, media regulations, and how the ministry's enforcers should interact with the public are among the most important articles of this law. In this law, the related provisions of electronic media are mentioned in articles (17 and 22). Under Article (17), there is a discussion of the duties of the Ombudsman regarding electronic media and information and mentions that the ombudsman must oblige the media and information officials to comply with the following guidelines while publishing the content. “The works and materials that are against the Islamic Sharia and religion, humiliate or insult Muslims, and include images of living beings must not be disseminated on electronic media.”

Besides this, article (22) states: “The electronic media must not be misused.” Despite this, Barkatullah Rasooli, the spokesman for the Ministry of Justice, said regarding this law: "By this law, the aforementioned ministry is obliged to command the good and forbid the evil by Islamic Sharia and Hanafi jurisprudence, and is also responsible for ensuring peace and brotherhood among the individuals while preventing them from engaging in ethnic, linguistic, and regional prejudices."

This law also regulates hateful speech on TV and Radio. According to this law, electronic media and broadcasters can not publish criminal

propaganda in Afghanistan. If they broadcast criminal propaganda, they will be prosecuted and introduced to the judiciary branch of the country.

History and Effects of Criminal Propaganda on Political Regimes

The history of criminal propaganda has a long precedent in printing and electronic media in Afghanistan. The British press media have always published criminal propaganda against its opponents who were ruling in Afghanistan. (Ahang, 2014, p. 49-50). For instance, the British press media publishes criminal propaganda counter to Amir Sher Ali Khan the king of Afghanistan.⁷ Currently, a very good argument has come out about the psychological and propaganda war in current politics. It says that the psychological and propaganda war is a war with the enemy's mind and not with his blood and body. (Payne, 2009, p. 109-128). Now we will discuss a little about the effects of the propaganda war on the political regimes in Afghanistan: although this war has been more beneficial than ever in the rest of the world, it has caused many losses in Afghanistan.

So far, Afghanistan's most powerful regimes have overthrown only a few radio, broadcasting and television stations. The government of Ghazi Amanullah Khan was overthrown and destroyed only because of the lies and propaganda of a few Western media. (Akhlaq, 2015, P. 5). The headlines of BBC, Deutsche Welle, and Voice of America radio stations were very dangerous for Dr. Najib in the government. (BBC Pashto, 2021). President Ghani's government shut down Tolo News and many pro-Iranian media and websites. (Shamshad TV, Benawa Online Pashto, 2008).

⁷ There were several reasons for the British to publish against Amir Sher Ali Khan, the relation of the king was closer to Russia than the British. For example, a delegation from Russia came to Afghanistan to meet Amir Sher Ali Khan. When the British came to know about the arrival of this delegation, the British asked Amir Sharali Khan to remove the Russian delegation and gave him a deadline in this regard. It was at a time when Amir's son died, he was busy with his son's death ceremony, so he did not give timely information to the British and also wanted to maintain the balance between the Russians and the British as an independent king and have friendly relations with both. This work was not acceptable to the British, so the British attacked Kabul. After the attack, Amir Sher Ali Khan went to Mazar with his 50,000 soldiers and died there. So after Amir Sher Ali Khan, how many governments came into being, they did not establish a media called Shams-Ul-Nahar. Thus, it is argued that the government of Amir Sher Ali Khan and the publication of Shams-Ul-Nahar were destroyed and demolished by the British. See Ghulam Reza Mayal Herawi, 1962. "Introduction of newspapers, magazines, and Gazette," Parwan publications, Afghanistan, p.91-92.

Afghanistan International, Zawiya News, Amu TV and others have waged the toughest psychological and propaganda war against the Islamic Emirate of the Taliban. (Afghanistan International TV, 2024). This series will continue until the central apparatus of our government pays serious attention to this problem.

Recommendations

- i. First of all, it is recommended to explain and interpret the regulatory legislation of criminal propaganda on electronic media. Because the whole legal system of Afghanistan, particularly, in the field of electronic media is vague, complex, unobvious and unclear.
- ii. It is suggested that the punitive law for media violations shall be approved which is proposed in article (52) of the mass media law in 2009. By approving this law, several legal problems and issues of electronic media broadcasting will be eliminated and destroyed.
- iii. It is recommended to define and describe in the scope of media law the entire terms and words that are used in the field of professional journalism. For instance, criminal propaganda, Islamic values, national interests, and criminal dissemination on electronic media.
- iv. It is proposed to create a standard code of ethics for regulating electronic media broadcasting. This is because nowadays every profession and occupation has exclusive ethical rules to manage its affairs in the field of work. Therefore, it is obligatory to establish a professional and standard code of electronic media ethics in consideration of current terms and technology.
- v. Since the regulatory laws of electronic media are ancient and not per contemporary requirements. Alongside this, there is just one law (mass media law) for regulating press and electronic media. Thus, it is recommended to make new laws, norms, regulations, and procedures in consideration of the present conditions and must define and explain all related crimes of media. These new rules and laws should be separated namely the regulatory laws of electronic media. Moreover, these laws and norms must be implemented in practice, because the biggest problem of broadcasting criminal propaganda is the non-enforcement of the law.

Conclusion

Since electronic media can play an interesting role in training, strengthening, educating, informing, destroying, and conquering public opinion, they are also very effective and influential tools for intellectual warfare that nothing else can take place in this way. Especially in backward and illiterate communities (Afghanistan), criminal propaganda is more useful and effective than a military war, because the interested country reaches its target without spending or killing. Living examples are accusing the US of Iraq having nuclear weapons based on the propaganda of the electronic media, as well as the conflict in Libya and the destruction of the International Trade Center, and accusing it of Al-Qaeda and the invasion of Afghanistan. This is all that is broadcast in the broadcast media as propaganda. Because in contemporary politics it is an accepted logic that psychological and propaganda war is a war with the enemy's mind and not with his blood and body. This is the reason that today, through the electronic media, the oppressive forces of the world have brought the oppressed and illiterate communities under their influence by spreading their criminal propaganda.

Moreover, the regulatory laws of Afghanistan regarding criminal propaganda on broadcast media have a relatively comprehensive and general explanation. Like, the Constitution, Mass Media Law, Penal Code, and the Law on Crimes Against Internal and External Security. According to these laws, electronic media cannot disseminate hateful, false, defamatory, and fighting propaganda or any category of propaganda that is against public order and security, religious standards, national values, and interests, and violate the fundamental freedom and rights of human beings. Several broadcast media disseminate various types of propaganda in Afghanistan and break up the internal and external rules and regulations regarding propaganda. The main factors are the lack of professional journalists and broadcast media, foreign funding of electronic media, lack of a strong and independent central government, foreign intelligence, and weak governance.

Concurrently, ever since the Islamic Emirate of the Taliban came to power in Afghanistan, internal electronic media have been largely controlled and regulated. Electronic media cannot broadcast against the ideology, policy and strategy of the ruling regime. Although there are several criticisms in this section that the ruling system restricts the freedom of expression and speech. However, if we consider the freedom of

expression and speech during the republic, it is better to limit the broadcasting of electronic media, because most of the electronic media in the republic were broadcasting against Islamic and national values and interests.

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