



Rights And Obligations Of Foreigners Under The Afghan Laws

Toryalai Hemat*

*Vice-Chancellor of Academic Affairs & Lecturer of Law & Political sciences faculty at Rokhan Institute of higher education, Jalalabad, Afghanistan. Email: Hemat_safi58@yahoo.com

***Corresponding Author:** - Toryalai Hemat

*Vice-Chancellor of Academic Affairs & Lecturer of Law & Political sciences faculty at Rokhan Institute of higher education, Jalalabad, Afghanistan. Email: Hemat_safi58@yahoo.com

Abstract

According to the Afghan laws, foreigners are given the same rights as domestic citizens in all areas except political rights. Based on the provisions of Afghan law, foreigners have the right to enter Afghanistan, cross the borders and territory of Afghanistan, stay inside Afghanistan, and leave it whenever they want. Furthermore, foreigners have the right to find a job for themselves and are allowed to hire a translator and a defense lawyer to go to court for the protection of their rights. On the other hand, foreigners have a number of obligations under the laws of Afghanistan. For instance, they must enter Afghanistan through legal routes and ways and avoid travelling to those areas that are prohibited. Moreover, according to the law, they must stay in Afghanistan during visa extensions and bankruptcy.

The significance of the research study is that the foreigners become aware of their rights under the laws of Afghanistan in order to increase their willingness to travel to Afghanistan, which creates opportunities for the exchange of ideas, experiences, and improvements in various fields of work. Additionally, foreigners become aware of their obligations, based on which possible obstacles to the public order of Afghan society are prevented. The objective of the research study is to inform and acknowledge foreigners with regard to their rights and obligations under Afghan law. The doctrinal research methodology and descriptive, explanatory, and analytical research approaches are used in this work. It is worth mentioning that this research study is entirely based on library sources. The researcher concluded that the rights and duties mentioned under the Afghan laws are discussed in detail in the holy religion of Islam, and then in the field of private international law, they are well discussed and placed in the framework of international standards and international documents.

Keywords: Foreigner, Rights, obligations, Afghan laws,

Introduction

The modern age and its people are becoming more civilized, and there are many ways in which they are different from people in the past. There are stories from historical traditions that in the past, foreigners were addressed as enemies in societies and did not enjoy any rights; however, later, with the development of social, political, and commercial relations, special changes came related to the rights of foreigners. Citizens of all states have rights in the modern era, and a number of obligations are registered under the framework of countries' laws. Those individuals who are citizens of their respective countries and intend to settle in other countries for a short or longer period of time to achieve specific goals have a number of rights and obligations in the country of residence.

Apparently, the laws of the countries deal differently with foreigners' rights; however, in general, based on the principles and standards of private international law, the laws of countries provide relatively equal rights to foreigners. Like other countries, many

rights and obligations are registered in Afghan laws. Therefore, the researcher has discussed and analyzed in detail the rights and obligations of foreigners under the statutory laws of Afghanistan.

Reasons for the choosing of the research topic

The researcher has chosen the research topic for the following reasons:

1. In order to add a scientific research study related to the rights and obligations of foreigners from the point of view of Afghan laws for law students and legal professionals.
2. in order to collect, discuss, and analyses the rights and obligations of foreigners in one document and publish it in an international journal to make foreigners aware of their rights and obligations under the Afghan statutory laws. It will bring peace, stability, and public order to Afghan society.

The significance of the research study

The significance of the research study is that the foreigners become aware of their rights under the laws of Afghanistan in order to increase their willingness to travel to Afghanistan, which creates opportunities for the exchange of ideas, experiences, and improvements in various fields of work. Additionally, foreigners become aware of their obligations, based on which possible obstacles to the public order of Afghan society are prevented.

Research questions

1. What rights are given to foreigners under the laws of Afghanistan?
2. What obligations are given to foreigners in the laws of Afghanistan?

Research objectives

1. To evaluate and discuss the rights of foreigners under Afghan laws?
2. To discuss and analyze the obligations of foreigners under Afghan laws?

Literature review

The issue of foreigners' rights and obligations is extremely important in Afghanistan, and it has been addressed in numerous scientific researcher papers and textbooks. These scientific research papers and text books are briefly mentioned as follows.

Wali Mohammad Nasih, a professor at Kabul University, wrote a book in 2009 called "The Rights and Obligations of Foreigners in Afghanistan." In it, he explains in detail how to find foreigners in Afghan laws and international documents, what kind of foreigners they are, where they come from, and what their rights and obligations are. The difference between this research study and the above-mentioned one is that in this research study, the research has discussed the rights and obligations of foreigners under Afghan laws. On the other hand, Professor Nasih has deeply discussed the rights and obligations of foreigners under Afghan law and in international legal documents.

Abdul Wahab, in his 2014 text book "The Rights and Obligations of Foreigners," states in detail the identification of foreigners, types, sources, the historical background of the rights and obligations of foreigners, and the rights and obligations of foreigners under the international legal documents.

Also, the rights and responsibilities of foreigners are talked about in depth in a number of private international law textbooks written by many Afghan professors. such as Profs. Ahmad Gul Wasiq Durrani, Shams Salam Shams Safi, Obaidullah Akhundzada, and Wali Mohammad Nasih.

Introduction of foreigners

Linguistically, "foreigner" means a stranger or unknown person. Terminologically, a foreigner is defined as follows:

A foreigner is someone who lives in a country but does not have that country's citizenship. (Glossary of Legal Terms, 1387) In other words, "foreigner" or "alien" are synonyms used for a person who resides in a country for a short or long time due to various reasons; however, he does not have the citizenship of this country. (Akhundzada, 1397). According to Article 3 of the Afghan Citizenship Law, a foreigner is someone who does not have Afghan citizenship or is stateless. (Afghanistan's citizenship law, 1421). In terms of distinguishing purposes, foreigners are categorized into several kinds. such as refugees, asylum seekers, tourists, students, businessmen, and journalists, as well as those who are engaged in a job as a foreigner or do not have any job or profession. (Nasih, 2009).

The rights and obligations of foreigners

Based on countries' internal or national laws, the rights and obligations of foreigners are well-established. However, at the international level, there are principles and standards that countries should abide by and base their own national laws on. So, it can be said that in general, there are two types of sources of foreigners' rights: national and international. Since my research study is related to the rights and obligations of foreigners in Afghanistan, based on the above sources, the rights and obligations of foreigners will be discussed under the national laws of Afghanistan.

In the modern age, citizens of all states enjoy a series of rights and a number of obligations registered under the framework of their countries' laws. Within the framework of the United Nations, in the International Declaration of Human Rights, in a number of other conventions and resolutions, and in the national laws of countries including Afghanistan, the rights and obligations of foreigners are registered. The rights of foreigners are going to be discussed in detail as follows:

The rights of foreigners under Afghan laws

Under the Afghan statutory laws, some fundamental rights are mentioned and registered for foreigners. Such as the right of entry, the right of residence, the right of passage from Afghanistan, the right of leaving, the right to protect the dignity and status, the right to security of residence, the right to choose and pursue a profession and job, the right of access to court, the right to perform religious ceremonies, the right to privacy of communications and correspondence, the right to own property, the right to accept the release of liability, the right to exercise the principle of personal jurisdiction over the crime, the right to maintain the principle of legality of crimes and penalties, the right to prohibit torture and punishment against human dignity, the right to counsel, and the right to an interpreter. Each of them is going to be discussed as follows.

Entry privileges into Afghanistan

It is a common and accepted principle in the modern era that human beings cannot be limited to a specific territory; rather, they are required to travel to different countries to fulfil and acquire their basic needs. Such as food, education, tourism, and other legal requirements. (Akhundzada, 1397). Apparently, foreigners can travel from one country to another; however, this facility has a number of legal terms and conditions that are registered in each country's national laws. According to the laws of Afghanistan, foreigners can enter Afghanistan; however, a series of formalities and documents are necessary, which include a passport and visa.

Based on article 3 of the Afghan passport law, the passport is defined as an official document that is issued by the authorities in accordance with the provisions of this law in order to approve the travel of the citizens of the country abroad and their return to the homeland (Passport Law, 1394). Furthermore, article 25 of the Law on Residence and Travel of Foreign Nationals in Afghanistan states that foreigners who want to enter Afghanistan must obtain a visa. A foreign citizen wishing to travel to the Islamic Republic of Afghanistan is obliged to obtain a visa from the relevant agencies of the Ministry of Interior or from the Afghan political or consular representatives, in accordance with international interactions, regulations, and multilateral agreements abroad. (Law on Travel and Residence of Foreign Nationals in Afghanistan, 1394).

Right to reside in Afghanistan

The laws of Afghanistan say that foreigners can live there for a short time or permanently. Temporary settlement is when foreigners come to visit or study in Afghanistan and do not intend to settle permanently. However, temporary residence also requires that it not be in conflict with the general order and security of Afghan society. (Durania, 1399). Permanent settlement is the residence that foreigners have adopted in a country based on legal provisions, with the intention of never returning to their home country or a third country. (Nasih, 1397).

Based on Article 12 of the Law on Residence and Travel of Foreign Citizens of Afghanistan, provisions of the tourist visa are mentioned as follows:

1. A tourist visa is given to people from other countries who want to visit the Islamic Republic of Afghanistan for tourism, entertainment, or to see historical sites.
2. The visa is issued by Afghan political or consular representatives and is valid for three months, with the right of entry for one month of stay.
3. The tourist visa is extended for a period of thirty days by the Ministry of Interior based on the request of tourists and the introduction of the Ministry of Information and Culture. (Law on Travel and Residence of Foreign Nationals in Afghanistan, 1394).

Article 18 of the Law on Residence and Travel of Foreign Citizens of Afghanistan states that: (1) a residence visa is issued to foreign nationals who enter the territory of the Islamic Republic of Afghanistan using the visas listed in the ninth, tenth, eleventh, fourteenth, and sixteenth articles of this law and continue their residence in Afghanistan. (2) This visa is issued by the Ministry of Interior for a period of one year with three-time entry depending on the type of passport and previous visa. (Law on Travel and Residence of Foreign Nationals in Afghanistan, 1394).

From the point of view of the researcher, Afghan legislators have not given much detail about the temporary and permanent residence of foreign citizens, including under what terms and conditions they can choose temporary or permanent residence or whether the rights and privileges of foreigners are the same or different in both situations, which needs further consideration and research in the law. (Nasih, 1397).

Right of passage from Afghanistan

If foreigners merely intend to pass through the territory of Afghanistan and have no intention of staying here, they can take advantage of this right by getting a transitional visa through the political representatives of Afghanistan and the authorities at the airports. ((Akhundzada, 1397). Article 20 of the Law on Residence and Travel of Foreign Citizens of Afghanistan states as follows:

1. A transit visa for foreign nationals with a valid travel document or visa of the destination country passing through the territory of the Islamic Republic of Afghanistan is valid for one month by air and three days of stay, and by air and land, with one- to two-time entry and a validity period of six days. According to a similar attitude and mutual agreements, these visas are issued by Afghan political or consular representatives outside the country.
2. The Ministry of the Interior can only extend this visa within the country for up to six days in special or emergency situations.
3. Political and service passport holders can get their transit visas extended by the Ministry of Foreign Affairs, as long as they follow the right steps. (Law on Travel and Residence of Foreign Nationals in Afghanistan, 1394). Based on the above article, foreigners who want to travel to another country by land or air have the right to pass through the territory of Afghanistan by obtaining a transit visa.

Right to leave Afghanistan

Foreigners who have come to Afghanistan legally for different reasons must get a visa from the Ministry of Foreign Affairs and meet the requirements to leave and go back to their home country. (Akhundzada, 1397). Article 20 of the Law on Residence and Travel of Foreign Citizens of Afghanistan states, pertaining to the exit visa, as follows:

- A. Foreigners who want to leave Afghanistan are given an exit visa in the following situations:
 1. Foreign citizens with visas listed in this law without a political visa.
 2. Those foreign citizens who entered Afghanistan without a visa and were sentenced to imprisonment after serving their sentence.
 3. Those foreign nationals who are prohibited from leaving the country by the competent court for legal reasons and intend to leave the country after the specified period.
 4. Foreigners whose visa has expired and who have not taken action to extend it.
- B. This visa is given out by both the Ministry of Foreign Affairs and the Ministry of the Interior. It is good for six days, depending on the type of passport, and can only be extended in special or emergency situations. (Law on Travel and Residence of Foreign Nationals) in Afghanistan, 1394

In the same way that foreigners can enter a country, they can also leave it, and the states cannot stop them from leaving; however, only in those cases that the law specifies. (Nasih, 1397).

Right to protect the dignity and status of foreigners

All human beings, whether foreigners or native citizens, have the right to protection of dignity and status regardless of their ethnicity, nationality, race, language, orientation, and other differences. (Akhundzada, 1397). In Article 24 of the Constitution of Afghanistan, freedom and human dignity are considered the rights of all human beings without distinction between foreigners and native citizens. The article states that liberty is a natural right of human beings. This right has no limits unless it affects other freedoms as well as the public interest, which shall be regulated by law. (Constitution of Afghanistan, 1382).

From the perspective of the research, in the above-mentioned article, the word "human being" includes both Afghan citizens and foreigners. Therefore, it can be said that according to the provisions of Article 24 of the Afghan constitution, foreigners have the right to protect their honour and status in Afghanistan, and no one can take this right away from them or harm their honour and status without the provisions of the law.

Right to security of residence

Domicile is the part of a state's territory with which a person has a material and legal relationship without being a citizen. (Saded, 1397). In the blessed religion of Islam, no one has been given the right to unjustly encroach on the personality, property, or residence of another person, whether he is a native citizen or a foreigner. Because the blessed religion of Islam protects the property, domicile, and personality of both Muslims and non-Muslims in the Islamic territory (Dar ul Islam). (Akhundzada, 1397, p. 123). This right is guaranteed and protected based on Article 38 of the Afghan Constitution, which states that "personal residence shall be immune from trespassing." No one, including the state, shall have the right to enter or search a personal residence without the owner's permission or by order of an authoritative court, except in situations and using methods delineated by law. A responsible official may enter or search a personal residence without a prior court order in the case of an obvious crime. The aforementioned official "shall obtain a court order within the time limit set by law after the entry or completion of the search." (Constitution of Afghanistan, 2002).

Right to choose and pursue a profession and job

Citizens of different countries intend to travel and settle in Afghanistan to achieve their special goals, including doing business and working; however, the right to choose an occupation is not included in the foreigner's choice; rather, a number of jobs in this field have been reserved for Afghan citizens. It cannot be said that foreigners have access to every job, and it is not absolute to say that foreigners do not have the right to work in Afghanistan. (Nasih, 1397).

In Afghanistan, the issue related to the profession and employment rights of foreigners is mentioned in various applicable laws, such as the Labor Law, the Private Investment Law, and the Law of Foreign Nationals' Employment. Article 6 of the Labor Law has the following clarification regarding the professions of foreigners: Those foreigners who have received work permits in the Islamic Republic of Afghanistan or will receive them later and are employed in governmental or non-governmental joint or private institutions are subject to the provisions of this law, with or without previous separate contracts. Their employment conditions are regulated by a separate regulation. The government can impose reciprocal restrictions on the citizens of those countries whose laws limit the labor rights of the citizens of the Islamic Republic of Afghanistan (Afghanistan Labor Law, 1387). It is necessary to mention that, according to the provisions of the law, no restrictions have been imposed on the choice of profession or job. Article 9, clause 3, of the Afghan labor law states that "selection of occupation, profession, specialty, skill, and kind of occupation according to educational field, interest, talent, and preparation in the Islamic Republic of Afghanistan "shall be open in accordance with the legislation." (Afghan labor law, 1387).

Article 6 of Afghanistan's Labor Law says that there are special rules about hiring foreigners. The special regulation was approved and adopted in 1384 H, which includes 16 articles. The conditions for the employment of foreigners are specified in Article 5 of this regulation, which are as follows:

1. Completing the age of eighteen years
2. Not reaching the retirement age according to the labor law of Afghanistan
3. Having a health certificate from the respective country
4. Having a health certificate from the Ministry of Public Health of Afghanistan
5. Having a residence and work visa. (Regulations on the employment of foreign nationals in Afghan institutions, 1384)

In the article, there are a number of requirements for foreigners who want to work. In addition to a residence visa, they must also have a work visa and a permit. It is concluded that according to the laws of Afghanistan, foreigners have the right to work in government and private institutions based on need; however, according to Article 6 of the regulations on the employment of foreign nationals in Afghan institutions, priority has been given to Afghan nationals and foreigners are avoided in the field where there are Afghan workers. (Regulations on the employment of foreign nationals in Afghan institutions, 1384).

Access to the courts

Foreigners are granted access to justice, which is one of the most important natural human rights. The Afghan statutory laws have given foreigners the right to appeal to the courts. Article 95 of the civil court procedure states that the courts of the Islamic Republic of Afghanistan have the right to hear civil cases involving foreigners. (Afghan civil court procedure, 1369). The right of access to the courts is currently one of the essential rights of foreigners. Foreigners can have a lawyer represent their case in court and hire an interpreter if they do not understand the language of the court. (Nasih, 1397).

Right to perform religious ceremonies

The primary basis of the right to perform religious ceremonies for foreigners in Afghanistan is the Islamic instructions and guidelines. The origin of this freedom is the freedom of religious belief, which means that the followers of each religion are free within their own religion. There is no pressure, but the obligation of non-Muslims as foreigners is to observe the religious rituals of Muslims. (Wahab, 1393). Since Afghanistan is an Islamic country, the legislators have included provisions in the law to protect the right of foreigners to perform religious ceremonies according to Islamic teachings. Article 2 of the Afghan constitution states that "The sacred religion of Islam is the religion of the Islamic Republic of Afghanistan. Followers of other faiths shall be free, within the bounds of the law, in the exercise and performance of their religious rituals."

From the point of view of the researcher, foreigners have been given the right to perform their religious ceremonies according to the provisions of the law. It means that foreigners can perform their religious ceremonies in order to respect Islamic rulings and not harm the sacred provisions of Islam, and the performing of the religious ceremony can be called a kind of propaganda for their religion by foreigners. Freedom of thought, conscience, religion, and belief can be restricted when they are declared by law and the purpose is to protect public order and respect the basic rights and freedoms of others. (Nasih, 1388).

Right to privacy in communications and correspondence

One of the most important rights among individual rights is the principle of sanctity and security of communication, correspondence, and telephone conversations. No one can limit this right without legal permission. (Durania, 1399). Article 37 of the Afghan constitution states that "Freedom and confidentiality of correspondence, as well as communications of individuals, whether in the form of a letter or via telephone, telegraph, as well as other means, shall be secure from intrusion." "The state shall not have the right to inspect personal correspondence and communications, unless authorized by provisions of the law."

The above article addresses the right to communication and correspondence for both Afghan citizens and foreigners while in Afghanistan. Of course, this sanctity is not absolute and is limited to some special situations. Based on the provisions of this article,

the investigation of the communications and correspondence of individuals, whether they are Afghan citizens or foreigners, should be conducted.

Right to attain and own property

The blessed religion of Islam and national and international laws, emphasize that every individual has the right to own wealth and property. (Durania, 1399). Article 40 of the Afghan constitution clarifies that "property shall be safe from violation." No one shall be prohibited from owning or acquiring property unless prohibited by law."No one's property shall be confiscated without the order of the law and the decision of an authoritative court." Based on the provisions of the constitution, both Afghan citizens and foreigners are allowed to attain and retain wealth and property within the limits of the law.

Right to accept the state of innocence as an original state

People are innocent by default as long as they have not done anything wrong. However, when the court rules that a person is guilty, they are no longer innocent. (Durania, 1399). Regarding innocence as the original state of individuals, Article 25 of the Afghan Constitution states that "Innocence is the original state. "The accused shall be innocent until proven guilty by the order of an authoritative court." The provision of the above article of the Constitution is not specific and limited only to Afghan citizens; however, it includes foreigners too. Moreover, article 5 of the Afghan criminal procedure code stipulates that innocence is the original state. The accused shall be innocent until proven guilty by the order of an authoritative court. (Afghan criminal procedure code, 1393).

Right to exercise the principle of personal jurisdiction over the crime

It is a well-known principle that one person's crime and related consequences do not extend to another person who is not involved in a crime. It means that crime is a personal act, and no one is ever held responsible for the crime of a family member or a relative. In the national laws of states and in international documents, crime is recognized as a personal act, and the principle of personal jurisdiction over the crime applies to both native citizens and foreigners. (Mirza Khan, 1396). Article 26 of the Afghan constitution states that crime is a personal act. The investigation, arrest, and detention of an accused, as well as the imposition of a penalty, must not incriminate anyone else. The article clearly states that a crime is a personal act, and no one has the right to arrest the criminal's relatives, friends, and family members while they are not involved in the crime. The provision of the constitution addressed both Afghan citizens and foreigners. (Safi, 1396).

Right to uphold the legality of crimes and punishments

It is an important principle in criminal law that there is no crime unless an action is considered a crime in the law. According to the legality principle of crimes and punishment, an act is not considered a crime and does not deserve punishment unless the legislator first determines and announces the criminal title and penalty. The legality principle protects individual security by ensuring basic individual liberties against the arbitrary and unwarranted intrusion of the state. Thus, the criminal judge cannot call the individuals' acts crimes and assign punishments for them or exert punishments that are not prescribed by the legislator without any letter of law (<https://eric.ed.Gov/?id=EJ903183>). In the legal system of Afghanistan, the same principle is accepted for both Afghan citizens and foreigners.

Article 27 of the Afghan constitution stipulates that "No deed shall be considered a crime unless ruled by a law promulgated prior to the commission of the offense. No one shall be pursued, arrested, or detained without due process of law. "No one shall be punished

without the decision of an authoritative court taken in accordance with the provisions of the law, promulgated prior to the commission of the offense."

Right to prohibit torture and punishment against human dignity

In the past, there was a lot of arbitrariness, and the suspect and the accused were tortured and punished inhumanely before the order of the court. Following that, the countries' domestic laws prohibited the punishment and torture of foreigners in addition to their own citizens. (Mirza, 1396). Any form of torture during the investigation, prosecution, or trial for the purpose of proving a crime is prohibited. Human dignity should be respected, and no one has the right to determine punishment against human dignity. (Durania, 1399).

Article 29 of the Afghan constitution states that "Persecution of human beings shall be forbidden." No one shall be permitted or ordered to torture another individual who is under investigation, arrest, detention, or has been convicted to be punished. "Punishment contrary to human dignity shall be prohibited."

Right to counsel or appoint a defense attorney

In the legal system of Afghanistan, citizens and foreigners are allowed to consult and be defended by a legal practitioner of their choice. This right extends to citizens and non-citizens alike. It is available at the stage of arrest, investigation, and trial. (Durania, 1399). If the defendant cannot afford a lawyer, it is required that the government appoint one or pay the defendant's legal_expenses. The right to counsel is generally regarded as a constituent of the right to a fair trial. Historically, however, not all countries have always recognized the right to counsel. This right is often included in national constitutions. Article 31 of the Afghan constitution clarifies that "upon arrest, or to prove the truth, every individual can appoint a defense attorney." Immediately upon arrest, the accused shall have the right to be informed of the nature of the accusation and appear before the court within the time limit specified by law. In criminal cases, the state shall appoint a defense attorney for the indigent. The confidentiality of conversations, correspondence, and communications between the accused and their attorney shall be secure from any kind of violation. "The duties and powers of defense attorneys shall be regulated by law."

Right to an interpreter

Language is an important tool for effective communication and understanding. In order to defend and argue the truth, an individual must have full command of a language. Since the courts and related institutes are the places where individuals can acquire their rights, which are obtained through conversation and reasoning, the legislators have given the accused the right to have an interpreter during the trial.

Article 135 of the Afghan constitution states that "If a party in a lawsuit does not know the language, the right to know the materials and documents of the case, as well as conversation in the court, shall be provided in the party's mother tongue through a translator appointed by the court." Furthermore, article 11 of the Afghan criminal procedure code stipulates that the police, prosecution, and court are obliged to provide an interpreter to the defendant, suspect, or accused who does not know the language that can be used in the proceedings of the court trial or who is deaf or dumb. An interpreter is hired at the expense of the state for the poor.

The provisions of the above code can be applied to both Afghan citizens and foreigners because foreigners need translators more than citizens. Most foreigners may not understand the language of the judicial process in Afghanistan.

The obligations of foreigners under Afghan law

Under the Afghan statutory laws, some obligations are mentioned, registered, and referred to foreigners, who should pay attention to them and hold themselves responsible towards them. In this part of the research study, some obligations are going to be discussed. such as displaying travel documents to border officials, notifying Afghan authorities when changing residence, notifying Afghan authorities in the case of remote tourism, notifying Afghan authorities upon arrival, obtaining written consent for travel, obtaining an exit visa, paying a fine in the event of visa non-extension, no entry without a travel document, no entry and exit outside designated border areas, no entry without prior consent, refraining from entering restricted areas, and Obligatory residence in case of bankruptcy. Each of the above-mentioned obligations is going to be discussed as follows.

Displaying travel documents to border officials

As mentioned before, foreigners can enter Afghanistan holding a legitimate document, a passport, and a visa according to the provisions of the law, and they are required to show their documents to the relevant officials when they are asked. Article 33 of the law on the travel and stay of foreigners in Afghanistan states that a foreign citizen who enters the territory of the Islamic Republic of Afghanistan is obliged to present his passport and other travel documents to the officials of the border and airport agencies. The officials of the border are obliged to enter the Hijri and Christian dates at the time of entry and exit after a thorough inspection of the visa holder's passport or other travel documents and stamp them clearly and legibly. Based on this article, foreigners are obliged to show their identity by showing their documents to the relevant officials upon entering Afghanistan.

Notifying Afghan authorities when changing residence

Foreigners have the right to reside in Afghanistan temporarily and permanently in accordance with the provisions of the law and to choose a domicile of their choice; on the other hand, they are obliged to provide information about their residence and travel route to the relevant officials according to the law. Article 34 of the law on the travel and stay of foreigners in Afghanistan states that a foreigner who changes his place of residence within the territory of the Islamic Republic of Afghanistan is obliged to register his/her new place of residence in an official form within 24 hours before leaving the place. Based on the article, the main objective of the legislator is to take their own security measures to keep the foreigners secure and safe.

Notification Afghan authorities in the event of remote tourism

Foreigners have the right to live and travel freely according to the law; however, when they intend to travel and have a remote tourism, they should notify the Afghan authorities. Article 36 of the law on the travel and stay of foreigners in Afghanistan states that those foreign tourists who want to travel or stay in inaccessible and remote areas are obliged to follow the instructions of the Ministry of Information and Culture. The relevant areas are diagnosed by the Ministry of Information and Culture in cooperation with the Ministry of Interior and notified to the officials and police in those areas. It is very clear from the text of the above article that this obligation is registered and mentioned for the protection and safety of foreigners.

Notifying Afghan authorities upon arrival

Since the arrival of foreigners is for different purposes, each of which is related to an institution or organization, the foreigners should notify the related organization upon their arrival. Article 40 of the law on the travel and stay of foreigners in Afghanistan states that a foreign citizen with an entry visa who enters the territory of the Islamic

Republic of Afghanistan is obliged to inform the agency that his activity is related to within 48 hours of his entry.

Obtaining written consent for travel

Foreigners who want to visit Afghanistan for tourism must have a passport, visa, and a written agreement from the Ministry of the Interior. Article 41 of the law on the travel and stay of foreigners in Afghanistan says that foreigners with visas listed in Articles 9, 10, 11, 13, 14, 16, and 17 can travel to Afghanistan for tourism with written permission from the Ministry of Interior. When they are traveling, they are treated as ordinary tourists.

From the researcher's point of view, a written consent is mentioned in the text of the above article; however, nothing has been said about the method of receiving it. It would be better if the Ministry of Interior explained how to get written consent. Therefore, it is not easy to get approval from the Ministry of Interior because they do not understand the language.

Obtaining an exit visa

Since foreigners have the right to get a visa to come to Afghanistan, they also have the right to obtain an exit visa when they leave Afghanistan. Article 49 of the law on the travel and stay of foreigners in Afghanistan states that if a foreign citizen is prosecuted for committing a crime and is released as a result, he/she is exempt from paying the visa fee during that period and is required to obtain an exit visa if he/she intends to leave the country.

paying a fine in the event of visa non-extension

As the visa allows foreigners to travel to Afghanistan, the existence of a visa for residence is considered a condition, and foreigners are obliged to extend their visas when they expire. If the visa is not extended within the period specified by law, the foreigners are obliged to pay the fine according to the provisions of the law. Article 50 of the law on the travel and stay of foreigners in Afghanistan states as follows: 1. Foreigners with visas listed in articles 10, 11, 12, 13, 14, 15, 16, 18, and 19 of this law do not extend their visas without valid reasons; for each day of delay up to one month, they are fined ten dollars; for more than one month, they are fined fifteen dollars per day; and for three months, they are fined twenty dollars per day or equivalent Afghani. 2. If the delay listed in clause (1) of this article is more than three months, in addition to paying the visa tax and fine, the exit visa will be issued, and he/she cannot enter Afghanistan for up to six months.

No entry without travel documents

Since it was mentioned earlier that foreigners have the right to enter Afghanistan according to the provisions of the law, foreigners are required to have relevant travel documents to enter Afghanistan. Article 51 of the law on the travel and stay of foreigners in Afghanistan states that a foreigner who enters the territory of the Islamic Republic of Afghanistan without a passport, visa, or other travel documents will be prosecuted according to the laws of the country. Based on the provisions of the above article, foreigners are not allowed to enter Afghanistan without legitimate travel documents.

No entry or exit outside designated border areas

Since the law allows foreigners to enter Afghanistan, they must follow all the rules and cannot enter or leave the country through any other way than the designated areas, even if they have the proper papers. Article 53 of the law on the travel and stay of foreigners in Afghanistan says that foreigners with passports, visas, or other travel

documents who enter the Islamic Republic of Afghanistan outside of the designated border areas will be prosecuted according to the country's laws.

No entry without prior permission

In the event that a foreigner has been considered a prohibited person and has been deported from the territory of Afghanistan, he/she is obliged to comply with the provisions of the law in this regard. If he/she enters the territory of Afghanistan without consent, they will be prosecuted. Article 54 of the law on the travel and stay of foreigners in Afghanistan states that those foreigners who have been expelled from the territory of the Islamic Republic of Afghanistan for a fixed or indefinite period of time and are considered as prohibited persons and enter the country without the written consent of the Afghan authorities will be prosecuted according to the laws of the country and will be tracked down and deported from the territory of the Islamic Republic of Afghanistan.

Refraining from entering restricted areas

From a military and political point of view, the law says that Afghan citizens cannot go into certain areas. Foreigners are also not permitted to enter certain areas. Article 55 of the law on the travel and stay of foreigners in Afghanistan states that foreign nationals cannot enter or travel to restricted areas. The perpetrator is prosecuted according to the provisions of the law.

From the researcher's perspective, foreigners are obliged to refrain from entering prohibited and restricted areas, and in cases of violation, legal action has been taken. However, the legislator has not clarified the restricted and prohibited areas. It would be preferable if the restricted areas were explained and clarified so that foreigners would refrain from visiting them.

Obligatory residence in case of bankruptcy

Foreigners have the right to choose their profession according to the law. It is natural that foreign professionals may face different situations in their professional lives. If foreigners face bankruptcy in Afghanistan, they are not obliged to pay the fine for the visa fee and delay; however, they will be obliged to stay in Afghanistan for a short period of time. Article 58 of the law on the travel and stay of foreigners in Afghanistan states a foreign citizen who is forced to stay in the territory of the Islamic Republic of Afghanistan for a short period of time due to bankruptcy, is not subject to legal proceedings, and he/she is not obliged to pay the visa tax and the penalty for an overstay.

From the point of view of the researcher, as the above article states that foreigners are obliged to stay in Afghanistan for a short period of time in case of bankruptcy, the period has not been specified, and the reason for the stay is not clear. Therefore, the legislator should clarify the time period and the reason for the stay.

Conclusion

The subject matter related to the rights and obligations of foreigners is one of the main issues of private international law. In the current era, countries have paid special attention to them and registered them in their statutory laws. International relations cannot be arranged and regulated unless the countries are convinced to bestow a number of rights on foreigners because this is the factor affecting the political, economic, cultural, and legal relations of individuals.

According to Afghan statutory laws, most of the rights that local citizens have are also enjoyed by foreigners, with the exception of some rights that are exclusive to Afghan

citizens, especially political rights. Like in other countries, foreigners are deprived of political rights in Afghanistan too. However, in all other cases, foreigners can enter Afghanistan according to the provisions of the law, pass through Afghanistan, choose a residence, exit whenever they want, and so on. On the other hand, foreigners have to fulfil and maintain some obligations based on Afghan statutory laws. Such as, displaying travel documents to border officials, notifying Afghan authorities when changing residence, notifying Afghan authorities in the case of remote tourism, notifying Afghan authorities upon arrival, obtaining written consent for travel, obtaining an exit visa, and so on. Fortunately, the rights and obligations for foreigners mentioned in the statutory laws of Afghanistan are in accordance with the provisions of the blessed religion of Islam and international principles in the field of private international law.

Recommendations

In the course of this research study, suggestions have been made to a number of Afghan institutions regarding the subject matter of the rights and obligations of foreigners. The Afghan authorities and institutions must pay full attention to solving the drawbacks and problems in this regard.

1. To the Ministry of Foreign Affairs

In order to implement the provisions of the Afghan laws in various areas related to foreign citizens, especially those related to the rights and obligations of foreigners, it is recommended to monitor the performance of other relevant agencies through a regular mechanism.

2. To the Ministry of Interior Affairs

It is recommended to the honourable Ministry of Interior to create a mechanism for the arrangement of various special public awareness programmes in order to solve the possible obstacles in front of the rights of foreigners and help the foreigners better comply with their obligations according to the Afghan statutory laws.

3. To the Ministry of Information and Culture

In order for foreigners to be well informed about the Afghan laws and to observe and implement the laws in their professional lives. Therefore, it is recommended to the honourable Ministry of Information and Culture to create public awareness programmes using the media in order to share relevant laws.

4. To the Minister of Labor and Social Affairs

Foreigners who live in Afghanistan are required to have a work permit in order to find jobs for themselves. However, according to the provisions of the law, priority should be given to Afghan citizens. So, for the law to be followed and the unemployment rate to go down, it is suggested that the Ministry of Labor and Social Affairs take the work permits of foreigners seriously and follow the law.

5. To the academic institutions and researchers

In order to determine the gaps in Afghan laws in terms of the rights and obligations of foreigners, academic institutions and researchers should conduct comparative research to compare the provisions of the Afghan laws to the laws of other countries, especially the neighboring countries.

References

- Afghanistan Labor Law. (1387). Kabul-Afghanistan: Ministry of Justice.
- Afghanistan's citizenship law. (1421). Kabul-Afghanistan: Ministry of Justice.
- Akhanzada, O. (1397). Private International Law. Jalalabad: Khatiz Publishing Association.
- Constitution of Afghanistan. (1382). Kabul- Afghanistan: Ministry of Justice.
- Criminal Procedure Law. (1393). Kabul-Afghanistan: Ministry of Justice.
- Defense lawyers law. (1386). Kabul-Afghanistan: Ministry of Justice.
- Durania, A. g. (1399). Private International Law. Jalalabad-Afghanitan: Yaar Publishing Society.
- Glossary of Legal Terms. (1387). Kabul-Afghaistan: USAID.
- Law of Principles of Civil Trials. (1369). Kabul-Afghanistan: Ministry of Justice.
- Law on Travel and Residence of Foreign Nationals in Afghanistan. (1394). Kabul-Afghanistan: Ministry of Justice.
- Merza khan, Q. (1396). Private International Law. (A. Asilkhan, Trans.) Kabul- Afghanistan: Moustaqble Publishing Society.
- Naseh, W. M. (1388). Rights and obligations of foreigners in Afghanistan. Kabul-Afghanistan: Saeed Publications.
- Nasih, W. M. (1397). Private international law. Kabul- Afghanistan: Saeed Publications.
- Pashto Pashtodictionary. (2010). Kabul-Afghnitan: Danish Publishing Society.
- Passport Law. (1394). Kabul-Afghanistan: Ministry of Justice.
- Qazi, S. A. (1392). Fundamental rights and political institutions. Tehran Iran: Tehran University Publications.
- Regulations on the employment of foreign nationals in Afghan institutions. (1384). Kabul-Afghanistan: Ministry of Justice.
- Saded, O. (1397). Legal Terminology. Kabul-Afghaitan: Peace Publishing Society.
- Safi, S. I. (1396). Private International Law. Jalalabad - Afghanistan: Muslim Publication Society.
- Wahab, A. (1393). Rights and Obligations of Foreigners. Gardez - Afghanistan: Ilmi Publishing Association.