



E-ISSN: 2706-8927
P-ISSN: 2706-8919
www.allstudyjournal.com
IJAAS 2021; 3(3): 27-31
Received: 19-05-2021
Accepted: 21-06-2021

Bashir Ahmad Naseri
Ph.D. Student, Department of
Management, RIMT
University, Punjab, India

Wahid Ahmad Wahab Zadeh
Ph.D. Student, Department of
Economics, RIMT University,
Punjab, India

Dr. Vishal Vinayak
Assistant Professor
RIMT University
vishalvinayak@rimt.ac.in

Corresponding Author:
Bashir Ahmad Naseri
Ph.D. Student, Department of
Management, RIMT
University, Punjab, India

Investigating the effects of trade rules and regulations on performance of Herat commercial companies

Bashir Ahmad Naseri, Wahid Ahmad Wahab Zadeh and Dr. Vishal Vinayak

Abstract

One of the prominent features of economic development in all countries is the existence of commercial companies that have been established within the legal system of each country. These institutions are called commercial companies and often are established for economic and commercial activities. This will cause the growth of domestic production, entrepreneurship, income generation, and increase of national income. One of the important issues of the law is monitoring the performance of companies; because in addition to the period of registration and operation of a commercial company, the period of the company's activity must be influenced by the laws governing commercial companies and if there is no monitoring of commercial companies, this phase will be far more destructive than the previous phase (formation of the company). In fact, the adverse effects of a commercial company's activity due to the inefficiency of laws or non-compliance with business laws and regulations will be a major problem for society. This will have negative consequences and other negative effects on individuals and on society and makes them suffer losses.

Keywords: rules, regulations, practices, commercial companies, legal

Introductions

Commercial companies in any legal system are created according to the existing conditions of the country and the will of the legislator. Rule of law (legislation) is one of the prominent indicators of economic development. The more the rule of law increases in a country, the more favorable the investment and economic development opportunities become, because investors invest in a country that feels safe in life and property and their assets have the support of the government, as well as trade and legal problems can be resolved with justice.

However, in Afghanistan, one of the main reasons for the decline of investment in recent years has been the increase of insecurity and coercion, or in other words, existence of the law of power instead of the power of law, as well as existence of many powerful people who seized huge financial capitals against the law of commerce.

In fact, with such violations, they have severely damaged the process of improving domestic production, the level of employment and the growth of new industries in this country. Therefore, in order to increase domestic production and increase investment, we must make serious efforts for the rule of law and the development of democracy. Since our country is a developing country, efforts should be made to consider all aspects that are necessary for the development of a country. One of these tools and tools of economic development is to strengthen commercial companies. In general, institutions called commercial companies are often established for economic and commercial activities.

One of the important issues of the law is monitoring the performance of companies because in addition to the period of registration and operation of a commercial company, the company's activity period must be influenced by the laws governing commercial companies and if there is no monitoring of commercial companies, their adverse effects in the productive period will be much more destructive than in the previous periods (company formation) because unlike the period of establishment and formation of the company, during its activity and normal life, it faces a number of people called third parties, which is one of the major issues in company law. In addition to affecting the partners and creditors of the company, the community will also be involved in this case and will suffer losses in this perspective. In fact, although the adverse effects of a corporate activity due to inefficiency or non-compliance with business rules and regulations affect the interests of a small number of people such as partners, managers and employees of the company, they potentially have more harms and risks than it is thought, because a company that, as an economic enterprise,

engages in adverse economic activities in the shadow of the law does not only affect the situation of these people, but also affects other people associated with the company, including customers and suppliers of materials. The primary ones are also affected, which is a big problem for the society. These negative consequences and other negative effects that they may have on individuals also affect the society and causes them to suffer losses.

Importance and necessity of research

The increasing development of domestic and international trade and exchanges, the need for speed and ease in trade, the role of capital turnover, and the volume of trade in the economic and political destiny of countries have led governments to formulate special rules and regulations and provide security for traders in business relationships.

The trader, on the other hand, needs security of mind and legal protection in line with the two principles of speed and convenience, which cannot be achieved by using the usual methods in the civil rights system. Therefore, in domestic and international legal systems, certain principles and rules govern commercial transactions, and these rules have a significant impact on the performance of commercial companies. Sometimes these rules help to improve the performance of companies and sometimes slow down the process of companies.

In this research, I study the laws governing commercial companies and the effects of these laws on the performance of commercial companies.

Objective of research

The basis of any activity is to achieve specific goals, so by conducting this research, the following objectives will be met: investigating and finding out the effects of commercial laws on performance, access to national and international markets, and studying the quantity of provisions and sales of commercial companies in Herat province.

Research questions

Do commercial laws affect the performance of commercial companies?

Do commercial laws and regulations help companies gain access to national and international markets?

What is the effectiveness of laws in the business activities of commercial companies in Herat province?

What is the government's ability to control and enforce trade laws and regulations?

Sampling and sample size

This research is applied research in terms of purpose and survey research in terms of implementation method. The study population in this study consists of commercial companies in Herat province. The sample size using Cochran's formula consists of two limited and non-invasive communities. Data collection is Hemmati Standard Questionnaire (2010) to assess the extent of trade laws on the performance of companies based on the research literature for each of the components such as the domestic trade sector, access to national and international markets and the effects of each of them on commercial companies is completed separately and has 24 questions. Of which 16 questions are related to components such as (national and international market trade sector) and 8 questions are related to their effects on companies that are valued based on the

ligature spectrum. The tools used in this research are the interview and library research questionnaires. Excell programs were used to analyze the data.

Statistical analysis

The data of this research have been collected in two ways, each of which is described below.

A- The first category data: These are the data that the researcher himself accesses during the research through the available tools.

To achieve the objectives of the research, the researcher should design a questionnaire that contains information about the general characteristics of the subject and ask questions that are understandable and simple for the interviewee or the person being interviewed. To complete it.

B- The second category of data: are the information that the researcher obtains to complete his research through content analysis using books, journals, and scientific articles and searching on reputable scientific Internet sites.

This study also used authoritative books, scientific articles published in prestigious quarterly journals, scientific journals, instructions and guidebooks of Afghanistan's commercial law.

Literature Review

Trade plays a major role in the economic growth of countries. According to this principle, commercial law is one of the most important disciplines of private law. If the economic developments and the development of the mechanism are examined, it can be seen that due to the mentioned reasons, the social relations of people have become more numerous and as a result, in most countries of the world except England, Holland, Italy and Switzerland, civil rights form a part of private law. Other disciplines, such as commercial law, maritime law and aviation law, each operate independently and under their own rules.

Definition of commercial law

Commercial law is a set of rules and principles that define and regulate the legal relationship and transactions between traders and business affairs; but it is not entirely clear whether commercial law is the law of the merchant or the law of business. In this case, there are two different legal systems, both of which we study now.

Definition of commercial law based on a horizontal or thematic system

According to this system, first, commercial transactions are described and then this law is used to describe traders and trading companies. In other words, in this system, commercial transactions are the basis and purpose and any person who makes these transactions is considered a merchant. According to this system, which forms the basis of French commercial law, commercial law is the law of commercial transactions. This means that in this system, first commercial transactions are determined by law and then by the trader. Therefore, any person who performs these acts is considered a commercial act and because the person is subject to the action, he is considered a businessman.

Definition of business law based on individual or personal system

In this system, unlike the previous system, the law first defines the trader and defines the business personalities,

then all the transactions that are done to advance his business affairs are considered commercial. In this system, the personal criterion is the trader. In fact, commercial transactions are subject to individuals. From the point of view of this system, which forms the basis of the German system, commercial law is the law of the merchant.

The basis of Afghanistan's commercial law, although influenced by both systems, is mostly the Afaqi (horizontal) system. Finally, it can be said that business law, according to the specific characteristics of its job, is related to both specific actions, i.e. commercial transactions, and to specific persons, i.e. businessmen and commercial companies; but because in today's world all governments, more or less, control the relations between individuals as well as the production and distribution of wealth, business people are obliged to follow the rules of the public law. Business law,

which was considered part of the law from the beginning, is now in constant contact with public law.

It should be noted that civil law includes the legal relations of all individuals, while commercial law is a special law which is intended for traders and business operations. In cases where business law does not explicitly provide for explicit rules on a subject, the rules of civil law are referred to. In general, there is a general difference between the principles of commercial law and civil law, and this shows the independence of commercial law.

Research findings

Based on the research findings obtained from the research questionnaires, (100) respondents provided answers to the questions of this research. The results are included below:

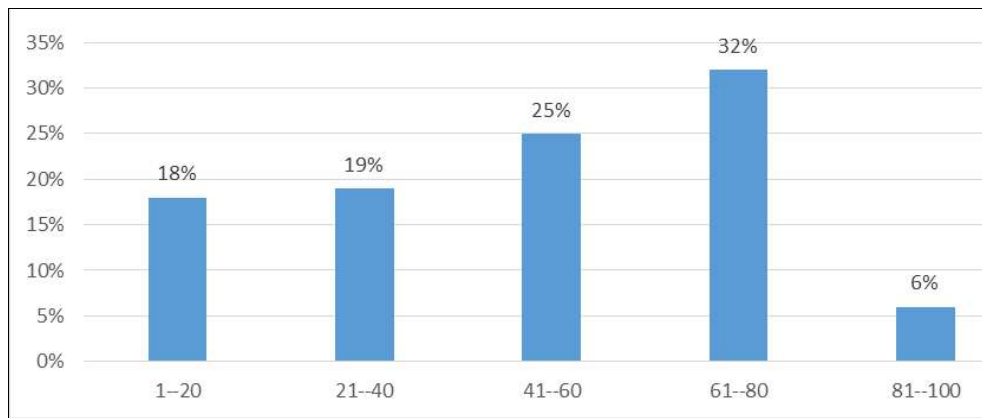


Fig 1: Do commercial laws affect the performance of commercial companies? n=100

From the total number of respondents, 32% have said the level of positive impact is high, 25% have said that the amount of positive effects was average, 19% have said that the amount of positive effects was low, 18% have said that

this rate was very low and only 6% said that the amount of positive effects of laws and regulations in Afghanistan have been widely reported.

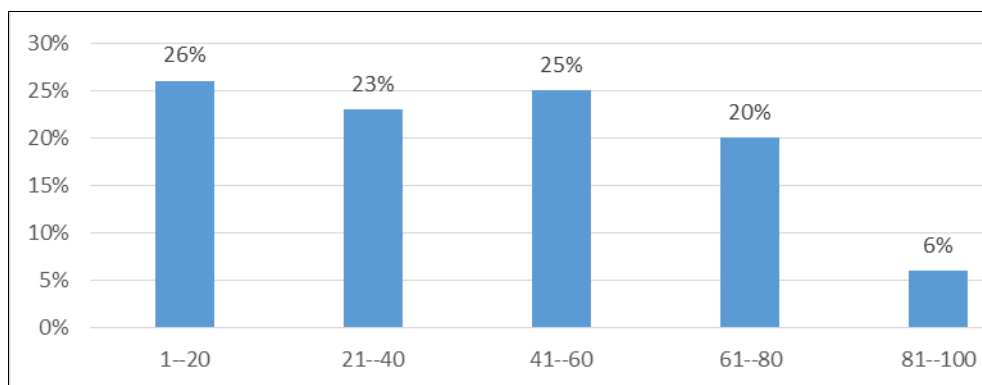


Fig 2: Do commercial laws and regulations help companies gain access to national and international markets? n=100

From the total number of respondents, 20% of respondents have replied that facilitating the access is high, 25% have replied facilitating the access is average, 23% have replied that facilitating the access is low, 26% said that this rate was

very low, and only 6% said that the level of positive effects of laws and regulations in Afghanistan have been widely reported.

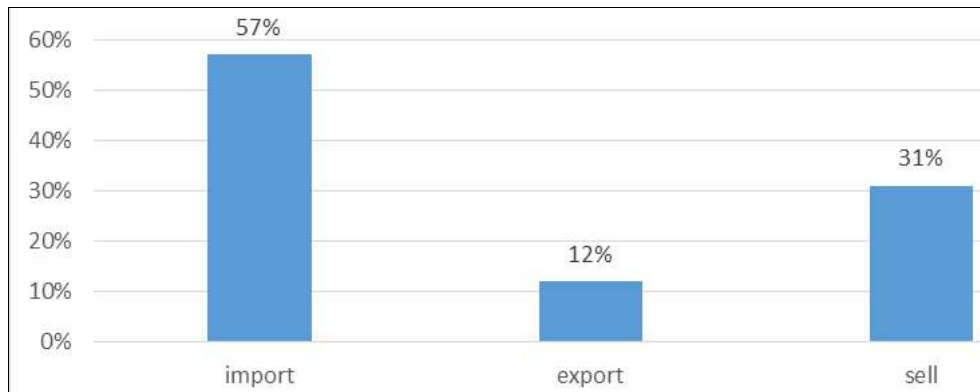


Fig 3: What is the effectiveness of laws in the business activities of commercial companies in Herat province? n=100

From the total number of respondents, Commercial laws have the most impact on items such as (imports, exports and sales) as shown in the graph above, this amount has an impact of 57% on imports, 12% on exports and 31% on sales.

What is the government's ability to control and enforce trade laws and regulations?

As we had an interview with the esteemed director of the Chambers of Commerce and Industry, he said that the private sector is the engine of economic growth of society and is one of the most important factors of development in countries today. However, this key sector in Afghanistan, despite its good actions, has not been able to find its true place. Weak regulatory framework, slow economic reform, corruption, lack of infrastructures, limited access to land, and the initial growth of the financial sector have prevented formation of a stronger private sector. Existence of appropriate laws is one of the most important bases for attracting and expanding investment and prosperity of domestic industries. In recent years, many procedures, regulations, laws and administrative mechanisms such as (Enforcement of Investment Protection and Protection of Domestic Industries Law; Afghanistan Chamber of Commerce and Industries Law, Protection of Domestic Products Law; Industrial Designs Law and Enforcement of Commercial and Industrial Secrets Law) have been privatized in order to support investment and the prosperity of the private sector, adjust, reform and simplify the government's efforts to provide an umbrella of support in the field of legislation of the trade and industry sector and to absorb greater participation of the private sector.

Government support for the private sector is one of the priorities of the government's National Development Program; According to this policy, the government has tried in recent years to support the expansion of production and investment in the private sector.

Trade plays a major role in the economic growth of countries. According to this principle, commercial law is one of the most important disciplines of private law. If we examine the economic developments and the development of mechanism, it can be seen that due to these reasons, people's social relations have become more numerous and as a result, in most countries of the world except Britain, Holland, Italy and Switzerland, civil rights form a part of private law. Other disciplines, such as commercial law, maritime law, and aviation law, each operate independently and under their own rules.

Conclusion

The results of the research show that the governing laws create relative barriers to the transactions of traders and restrict traders in their transactions because they must act in accordance with the established laws.

It was also revealed that the businessmen of Herat province are aware of all the laws and base their activities in accordance with the laws; they believe that the observance of these laws will make the trading system more regular and easier.

In addition, the results of the research findings showed that the positive effects of the laws governing commercial companies in Herat are not significant and traders expressed their dissatisfaction with some of the laws.

Despite the positive effects, the negative effects on the activities of traders are caused by commercial laws and prevent them from increasing their transactions and reduce their provisions, which was one of the most important goals of forming companies.

In addition to domestic trade laws, traders in their foreign transactions must also consider the laws of the trading countries and be aware of the effects on their transactions.

Despite the small amount of products and goods needed for citizens, which are produced in domestic companies in Herat province, traders do most of their transactions in the import of goods from other countries, and the existence of more regular foreign laws has forced traders in Herat to comply with their rules, they have made a cut to benefit more from their foreign transactions.

Recombination

In our country, the culture of observing commercial laws is weak and the wide gap between the government's and the nation has led to formation of this perspective that non-observance of laws in practice is considered a privilege. Therefore, merchants should be given the mentality of understanding and acting on the rules so that all of them participate in the observance of all the rules, avoid confronting the rules, do not escape from them, and carry out their business actions in accordance with the established laws.

1. Amendments to some laws by legislators in accordance with the legitimate demands of traders
2. The creation of a disproportionate system of customs tax on the import of goods in customs has caused traders to seek ways to escape the law. By coordinating this system, the government can encourage traders to follow these laws and eliminate the intention of breaking the laws.

Reference

1. The Enemy of Ziari, Dr. Esfandiar, Foroughnejad, Haidar, Nowruz Azizullah, Traditional, Modern, and Electronic Commercial Law, First Spring - Third Edition - Mehraban Book Publishing Institute 2011.
2. Skinny, Rabia. Commercial Law, General Commercial Transactions, Merchants and Organization of Business Activities, First Edition - Fall - Printing and Publishing Organization of the Ministry of Culture 2010.
3. HM Treasury. Financial Inclusion: The Way Forward. London March 2007.
4. Afghanistan Business Principles, published in 2007.
5. Sotoudeh, Hassan, Commercial Law. Publication of Justice - Third Edition - fall 1999, 4.
6. Stanekzai, Nasrullah, Naseh Vali Mohammad, Business Law - First Edition, Saeed Published 2007.