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Legislative Newsletter

Wolesi Jirga reaffirms decision on Electoral Decree

The Wolesi Jirga (WJ) on April 19 voted to uphold its initial decision to reject the Electoral Decree. The decision followed a formal notification by the Meshrano Jirga that the Upper House had decided against deliberating on the decree, as in their view, doing so contravened Article 109 of the Constitution. This position had been communicated in a formal letter to the Wolesi Jirga by Deputy Speaker of the Meshrano, Fazl Hadi Muslimyar, in which he said, “We are writing this in regards to the presidential decree, number 43, regarding the elections. Based on Article 109 of the Constitution, the Committee of Chairs of MJ did not include it in their working agenda.”

In his opening remarks in the plenary session, HE Yunus Qanooni (Kabul), Speaker of the WJ, advised the MPs of the MJ Admin Board’s decision. Speaker Qanooni said that the decision of the MJ Admin Board should not be taken as representative of the views of all senators. He added that even if the MJ had decided to debate the Electoral Decree and had subsequently endorsed the WJ decision to reject it, the exercise would have been futile as the government would neither have accepted nor respected the Assembly’s collective decision. “The Electoral Decree is rejected on both counts. If the government says we can’t discuss it, it is rejected. If the government accepts our right to consider it, again it is rejected,” Mr. Qanooni said.

Sayed Hussain Alemi Balkhi (Kabul) objected to Speaker Qanooni’s remarks, and argued that the MPs were hypocritical in their handling of the Decree. He said despite voting to reject the decree, MPs were adhering to clauses of the same. According to him, by registering their candidacy for the September Parliamentary Elections, MPs were implicitly endorsing the Electoral Decree and therefore reaffirming that the rejection was meaningless. Furthermore, “When Mr. Yasini [Mirwais Yasini (Ningarhar)] on behalf of the WJ Admin Board negotiates the appointment of the Electoral Complaint Commission (ECC) members based on the new Electoral Decree, it means the new Electoral Decree is accepted and enforceable,” Mr. Balkhi argued.

Mr. Balkhi was referring to the meeting convened by President Karzai with local influential leaders on April 15 to discuss issues related to the coming elections. Mr. Yasini attended the meeting on behalf of Mr. Qanooni who could not attend the meeting due to other commitments.

Responding to Mr. Balkhi, Mr. Qanooni said decisions made collectively by the WJ should not be affected or changed by actions of one member of the Admin Board. Mr. Qanooni then suggested that there were several solutions to this stalemate that he would not discuss in the presence of the media. The session subsequently continued in camera.

According to APAP sources, the MPs in their closed session explored several issues relating to the September elections. Some MPs are understood to have suggested that the elections be postponed, which was rejected. Mr. Qanooni reportedly called for a truce with the government over the decree. "Qanooni told us if we continue to fight the government, we will lose our trust and credibility with the people. He reminded us that we are all candidates for the coming elections," said one MP on condition of anonymity.

When the plenary session was finally opened to the public, Mr. Qanooni put two motions on the table. First, that the Electoral Decree be rejected and that the Electoral Decree of 2004 which was previously enforced, be adopted. And, second, he suggested that a working group consisting of MPs be appointed to work in liaison with the government to ensure that the 'right' law is enforced.

Members voted unanimously in favor of adopting the two motions. The government is yet to respond to the decision of the WJ.

Wolesi Jirga Approves the 1389 Budget

The 1389 National Budget was passed by the Wolesi Jirga (WJ) on April 22. MPs voted to approve the Budget after several weeks of intense debate wherein budget allocations to provinces had come under scrutiny and criticism for being unbalanced. The budget was however approved despite failure by the Minister of Finance (MoF) to address concerns of the MPs related to the lack of balance in provincial allocations.

The draft budget had allocated five provinces, Balkh, Kandahar, Kunduz, Badakhshan and Kabul US\$349.31m while the remaining 29 provinces were allocated US\$369.31. MPs had further identified 20 clauses in the budget which they said did not address the challenges the country is currently facing. The approved budget addresses all problematic clauses other than the balancing of provincial allocations.

Highlights in the Budget include US\$20 million which was allocated to the Gardan Daywar highway, which the MPs welcomed with reservations. They considered the allocation inadequate for the project and suggested that it would not make any meaningful contribution

towards the completion of the construction of the highway. Mr. Sediq Ahmad Osmani, Chairman of the Budget and Finance Committee, reacting to the allocation said, “If every year only US\$20 million was allocated, it would take thirty years to complete the highway.”

The Budget also addressed allowances of the disabled and families of the martyred, which were raised from US\$10 to about US\$30 per month. The Chairman of the Handicapped and Disabled Committee, Eng Mohammad Asem (Baghlan) said, “The amendments that the government has made are, to some extent, satisfactory in regards to the salaries of the disabled.”

Not all MPs welcomed all amendments to the Budget. Some members, particularly Ahmad Shah Behzad (Herat) were unhappy with the ‘precautionary funds’ allocation. According to them, the funds are open to abuse by the government as the WJ cannot monitor their utilization. Mr. Behzad walked out of Parliament in protest to not being afforded an opportunity to speak on the subject. Speaking to APAP outside the plenary, Behzad said, “The precautionary code has not been amended. The government has \$640 million to play with without properly accounting for it. It is not a budget, it is the King’s Coffers”.

Calling for the approval of the Budget, Mr. Osmani, argued that a decision on the Budget, preferably a positive one, was needed as soon as possible so that work on development projects could resume. “This is not a perfect Budget, it has many flaws, but considering how long the MPs have got before they go on leave to campaign for the September election, it would be bad idea to reject it,” Mr. Osmani said. The Budget was subsequently put to a vote and all but 23 MPs present voted for its adoption.

The Meshrano Jirga discusses execution of Afghans in Iran

On the 20th of April, Deputy Minister of Foreign Affairs, Mohammad Kabir Farahi, appeared before the Meshrano Jirga to present a brief on issues relating to the execution of Afghans in Iran. The plenary session, chaired by Speaker Sibghatullah Mujadidi, criticized the Ministry of Foreign Affairs, accusing it of complacency in resolving issues of Afghans incarcerated in Iran.

Reports indicate that at least 5700 Afghan nationals are incarcerated in Iranian prisons with over half of them on death row. Recent media reports allege that 45 have been executed on drug related charges. The media also reported that the 45 bodies have been repatriated to Afghanistan.

Commenting on the issue, Mowlawee Abdulwahab Erfan (Takhar) said, “The Ministry of Foreign Affairs’ (MoFA) reaction is inadequate. They are supposed to be the custodian of accurate information regarding the number of Afghans sentenced to death in foreign countries; they don’t have all the statistics.” Erfan further criticized the MoFA for ignoring

Iran's flouting of agreements between Tehran and Kabul relating to treatment of refugees and prisoners. "Iran does not respect international rules and laws; neither do they respect Afghanistan's sovereignty," he added.

Some MPs were of the view that Iran, in executing Afghan prisoners, was trying to force President Karzai's government to support Iran's foreign policy towards the West. "The Iranian government wants to display its power to America and force the Afghan government to do the same, executing Afghan prisoners contravenes the extradition of prisoners' agreement signed by the Afghanistan and Iranian governments," said Zalmi Zabuli. Dr. Zalmi Hafiz Abdulqayom (Nuristan) concurred, adding that the execution of the Afghans is one of the many tactics Iran has been systematically using, including torture of Afghan refugees in that country. "Iran expelled Afghan refugees during the winter season, they prohibit the refugee's children from going to school and now they execute them for petty crimes," Abdulqayom said.

Seddiqa Balkhi (Balkh) questioned Mr. Farahi about the crimes Afghans were being executed for. In her view, most were innocent people "who went to Iran to find work. Will they (Iran) send criminal files along with the corpses?" she asked.

Dr. Zalmi Zabuli and Ahmad Javid (Herat) advised caution on the complacency of the Ministry of foreign Affairs in investigating media reports on the alleged ill-treatment of Afghanistan nationals in Iran. They however added that the Ministry only seemed to act when some of the tortured nationals had died. "We pay attention when they are dead, why do we not show our concern when they are alive?" they asked.

Responding to the senators' concerns, Farahi denied that his ministry did not take the status of Afghan refugees seriously. He stated that in his last trip to Iran on April 18, he had met with Iranian high ranking officials to discuss the treatment of Afghan in that country. He further advised that the media tend to exaggerate numbers of Afghans executed in Iran. "We (the MoFA) were shocked to hear that 45 Afghans have been executed, the figures were exaggerated, only 6 were sentenced to death," he stated.

Mr. Farahi also told the Senators that he had used his trip to Iran to meet with Mr. Manochehr Mottaqi, Iran's Minister of Foreign Affairs. He said the two discussed the finalization of two Agreements signed between Afghanistan and Iran in 1385, the reconsideration of cases involving Afghan prisoners on death row and provision of work permits and educational facilities for Afghan refugees. According to Farahi, the Iranian government assured him Tehran is close to ratifying the agreements with Afghanistan. He also informed the Senators that Tehran has since agreed to extradite some Afghan prisoners as well as give residential permits, work permits and open up educational opportunities to Afghan refugees.

Senators in call for action on Kandahar security situation

The Meshrano Jirga (MJ) plenary has expressed its concern over the deteriorating security situation in Kandahar Province. Senators on 20th April, in a session chaired by Speaker Sibghatullah Mujadidi, called on the government to prioritize the stabilization of security in Kandahar Province lest the instability spills over to the rest of the country, particularly the Western provinces.

The senators made the call following the death of the Kandahar Municipal Deputy Mayor, Azizullah Yarmal who was killed by unknown gunmen on April 19. Over the course of the last two weeks, a number of government employees, elders of the society and merchants have been killed by unknown gunmen.

The senators said the deteriorating security situation in Kandahar is impeding the implementation of development projects in the region. This has been evidenced by the number of government officials who have resigned en masse in fear of their lives. Business people are also reported to be becoming more and more hesitant to conduct their work, a scenario which was now affecting the daily activities of the local population. “The Kandahar security issue should be urgently addressed; there is a desperate need for change,” said Bismillah Afghanmal (Kandahar). Mohammad Hassan Hotak (Kandahar) concurred, adding, “The security situation in Kandahar is so bad. There have been devastating terrorist incidents in the province. This is a vital issue; the problems of security in Kandahar do not affect that province alone but the rest of the country.”

The senators were also of the view that government officials in Kandahar are neglecting their duties, including allowing drug trafficking to flourish in the province. This they said worsened the security situation and strengthened the resolve of the enemy. In this regard, first Deputy Speaker Fazal Hadi Muslimyar said, “The enemy is not so strong, in my opinion; the drug traffickers are involved in most of the incidents.”

In March, the MJ sent a delegation to Kandahar to assess the security situation. In their report, the senators had stated that the security forces in Kandahar are generally weak and incapable of protecting the civilians. “The National Directorate of Security is totally mutilated and the situation in Kandahar is so bad that neither the shopkeepers nor other people can go out to work without fear for their lives” said Saleh Mohammad Pahlawan (Kandahar).

Concluding the session, Speaker Mujadidi promised to consult President Karzai with the view of finding a lasting solution to the Kandahar security problems. “There should be a solution to the security challenges not only in Kandahar but in the whole of Afghanistan. We won’t rest until all districts under control of the Taliban are freed, then we will be happy,” he said.

Legislation:

Most of the WJ committees failed to meet this week because of lack of quorum.

Meshrano Jirga

The MJ approved the following bills:

1. SARC agreement on the establishment of South Asia Standard Organization.

The agreement was signed on August 3 2008, in Colombo capital of Sri Lanka. This agreement will play a major role in facilitating South Asian Free Trade Area (SAFTA)

2. Law on Cooperatives (Section 1, Article 30)

The Amendment of Law on Cooperatives (Section 1, Article 30) was approved by the WJ April 12th 2010. This law is based on Article 13 of the Afghan constitution and regulates the creation, registration and development of the cooperative and their unions. The cooperatives are voluntary union between individuals who seek to achieve a common economical, cultural or social goal.

Acronyms

ECC:	Election Complaints Commission
IEC:	Independent Election Commission
MJ:	Meshrano Jirga
MoF:	Minister of Finance
MoFA:	Minister of Foreign Affairs
NA:	National Assembly
WJ:	Wolesi Jirga