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News

Wolesi Jirga Rebuffs Palace Comments on Amnesty Bill

The Reconciliation and Amnesty Bill which grants blanket amnesty to all involved in the pre-2001 Afghanistan conflicts has stirred controversy again.

The bill introduced in the National Assembly in 2006, was debated and passed. President Karzai, however, rejected the original and sent an amended draft back to the WJ. The WJ approved the amendments which were subsequently endorsed by the Meshrano Jirga. Because both houses processed and approved all of the President's changes, a vote of two-thirds majority in the WJ to override the rejection was not required. The President's Assembly-approved draft was then returned to the President for his assent.

Article 94ⁱ of the Constitution provides that the President, upon receiving a bill, has 15 days to assent or reject it. In the event that he does neither within the 15 day limit, the bill will automatically become law. In the case of the Amnesty Bill, President Karzai did not act within the 15 days, effectively making it law.

Recent publicity over the Amnesty Law's publication in the Official Gazette (which makes it enforceable) has attracted criticism from human right activists and others. In an apparent attempt to distance the President from the Law, Waheed Umar, Presidential Spokesman, in a March 17 press statement, claimed that the President could not reject the Bill because it was approved by a two-thirds vote of the WJ.

The WJ has since rebuffed Mr. Umar's statement calling it "baseless and misleading." In an interview on March 18, Wolesi Jirga Deputy Secretary, Mohammad Saleh Saljoqi (Herat), asserted that because the WJ did not reject the President's amendments, no two-third majority was needed. "This bill was not approved by a two-third majority, because we did not reject President Karzai's amendments. Practically, the Bill that was passed is the Bill that the government drafted," Saljoqi said.

MPs and Government Critique Government Anticorruption Effort

Wolesi Jirga MPs on March 15 questioned Mr. Yasin Usmani, head of the government's Anti-Corruption Department, on its efforts to fight corruption.

In opening remarks, Usmani cited a lack of enactment of new policies in explaining why corruption is still rampant in state institutions. He added that despite circulation by his office of an anti-corruption strategy to all government departments, none have taken steps towards its implementation. This he attributed to the Department's lack of enforcement capacity due to interference by high-ranking government officials, and limited funds and staff to monitor state institutions. In the interest of balance, Mr. Usmani also accused the Wolesi Jirga of underutilizing its oversight powers to keep corruption in check.

Responding to the last point, Speaker Qanooni stated that the WJ, in giving votes of no confidence to three ministers, has set a precedence of zero tolerance on corruption and played a significant role in the effort.

Other MPs questioned the logic for an Anti-Corruption Department with no real power to either investigate allegations of corruption or enforce its decisions. Mawlawee Ata Ullah Ludin (Nangarhar) asked, "Your department has no investigative authority nor has it executive ones; you only make policy. What is the need for such a department?" Members further questioned the Agency's resolve to fight corruption when it is turning a blind eye to senior officials' corrupt tendencies. Ramazan Bashardust (Kabul) said the Anti-Corruption agency will not succeed if it concentrates on low level government while ignoring high ranking 'big guns.' Rahman Oghly (Faryab) echoed Bashardust's sentiments, adding, "The country is ruled by a company of brothers. It's President's and Vice President's brothers who commit these crimes, not ordinary people."

MPs also accused Mr. Usmani's department of failing to deal with electoral fraud. Referring to events surrounding the 2009 Presidential Election, Qurban Kohistani (Ghor) said, "Corruption has worsened, the water is contaminated from the source. Both the President and the opposition spent millions on their campaigns. Where did they get that money? You must expose the corrupt officials."

Responding to Usmani's plea for additional funding, MPs advised him to present the Department's requirements through the Ministry of Finance. The MPs pledged to consider his suggestions as they review the 1389 National Budget.

New Senators Join Meshrano Jirga, Women See Gain

Chairing the Meshrano Jirga plenary on March 14, First Deputy Speaker Fazal Hadi Muslimyar welcomed 34 additional Meshrano Jirga members from the Provincial Councils to replace those to be elected in future from the yet-to-be-established District Councils. As

reported last week, President Karzai issued a decree on March 6 ordering the action. The Meshrano had requested the decree, similar to that issued at the start of last legislative term, to complete its quorum. The “temporary” senators will sit until completion of the Parliamentary and District Council Elections scheduled for September 2010. Doubts remain, however, about the likelihood of DC Elections occurring this year.

Chairman of the MJ Complaints Committee, Dr. Zalmay Zabuli (Zabul), while questioning the legality of the move, welcomed it. He pointed out that the absence of the last third would have left the MJ open to manipulation by the executive, which would have controlled 50 percent of the Upper House with President Karzai’s 34 appointments. “At least now we have two thirds elected members to do better legislation and oversight of the government’s activities,” said Zabuli.

Female members were happy with an increase in the number of women senators. “It’s positive progress to have 27 female members in the MJ. Last year we had five elected female members, but this year the number of elected female members increased to ten,” said Najiba Husaini (Daikundi).

The new members for their part pledged to work for the prosperity of the Afghan people and reconstruction of the country. “We have to do more, the MJ hasn’t worked as much as the Afghan people expect,” said one of them.

MJ Discusses Peace Jirga

A week after appearing before the Wolesi Jirga, Minister of Education, Mr. Farooq Wardak was back in the National Assembly on March 16 to explain the objectives of the National Consultative Peace Jirga (NCPJ) and announce a new date of May 2 rather than April 29.

Mr. Wardak explained that a key objective of the Jirga is to create a mechanism and framework for reconciliation with the Taliban and other opposition groups. He stated that 1,270 delegates drawn from the National Assembly, Provincial Councils, provincial governors, district leaders, academia, civil society, cultural associations, nomads, Islamic Scholars and representatives of refugees in Iran and Pakistan would attend.

The senators, like their WJ counterparts, raised questions on the legality of the event and any resolutions stemming from it. In their view, there were no provisions for a Peace Jirga in the Constitution. Mohammad Alem Ezadyaar (Panjshir) said, “The legality of the Jirga should be questioned. If it has no legal basis, its decisions will not be obligatory.”

A few also questioned the role and position of the foreign forces in the peace process. According to some, the Afghan government and international forces are pulling in different directions in their approach to attaining peace. “Have you ever talked to the foreigners to see how honest they are and to what extent they want peace in Afghanistan? At the moment they

come to us as friends, but they are in fact our enemies. They need to change, Pakistan is only a stooge,” argued Dr. Zalmay Zabuli (Zabul).

Rafiullah Haidari (Kunar) agreed that the Peace Jirga would be pointless without the collaboration of the foreign troops. “While the Americans are fighting, how effective will the Jirga be?” he asked.

Concerned that not enough has been done to ensure the opposition’s participation, some argued that crowding the Jirga with government supporters will be self defeating and a waste of funds. “Have you considered [the importance of] the opposition’s agreement with the mechanism or not? Impartial people should be present in the Jirga. If the opposition disagrees with the Jirga, it will be ineffective,” Abdullah Haqaeqi (Parwan) said.

Mr. Wardak explained that the opposition was not invited to the NCPJ because the Government wanted to use the conference as a forum to decide who constitutes the opposition and with whom the government should be working. However, the minister clarified that the government would not bar opposition members put forward by the district shuras. Mr. Wardak also explained that the NCPJ had the support of the international community, which is working in coordination with President Karzai.

MPs Meet President to Discuss Nominee List

A group of MPs on March 17 visited the Presidential Palace to discuss President Karzai’s list of prospective ministers. The Wolesi Jirga has to date confirmed fifteen of twenty four ministerial nominees. The remaining nine ministries are currently manned by acting ministers.

The move to consult the MPs prior to availing the list to the Assembly is seen by many as a u-turn from the government’s confrontational policy toward Parliament and evidence that President Karzai is beginning to take the WJ seriously.

Of 45 MPs in attendance, most were known government supporters. Participants in the private meeting later told APAP that President Karzai expressed concern over repeated rejection of his nominees. “It is not in the national interest to keep rejecting the lists,” he reportedly said.

There were also deliberations on the possibility of including previously rejected nominees in the new submission. According to the Article 76 of the WJ Rules of Procedure, rejected ministerial candidates cannot be re-nominated for the same post. One MP is understood to have proposed a “temporary suspension of the internal procedures” to facilitate a revote on some nominees. This suggestion was fiercely opposed by other MPs.

Mr. Karzai also reportedly expressed concerns about a “foreigners’ agenda” in Afghanistan. It was unclear whether the comments aimed to bring MPs onboard or stem from deeper trust issues between the President and international community.

Whether or not the meeting will impact the MPs’ votes remains to be seen.

Legislation

Bills will be included as they become active in the National Assembly.

Wolesi Jirga

National Budget for 1389

The Meshrano Jirga has submitted the 1389 National Budget to the Wolesi Jirga together with its recommendations and suggestions, as discussed in last week’s *Newsletter*. Minister of Finance, Mr. Umar Zakhilwal, formally presented the Bill to the WJ on March 15. The WJ committees are currently discussing the Budget as a matter of urgency to make up lost time due to delays caused by the minister nominee debates last session. Speaker HE Yunus Qanooni cancelled a general plenary last Wednesday and asked the committees to hold a joint meeting to begin deliberations.

Law on Medals and Badges

The Law on Medals and Badges regulates affairs related to the class, value, size, and production of official government medals and badges. The draft explains the types and purposes of various medals and badges and defines award conditions and processes.

Status: The draft is under discussion in the Wolesi Jirga Religion, Cultural, Education and Higher Education Committee in consultation with other committees. The draft saw little attention last week as the committees focused on the 1389 National Budget.

Law on Child Correction and Education Centers

The bill is drafted in accordance with the values embodied in Article 54 of the Afghan Constitution and the UN Convention on the Rights of the Child. The draft law addresses issues of re-education and protection of suspected, accused, and convicted children in child correction and education centers.

Status: The Wolesi Justice and Judiciary committee invited the Minister of Justice, Mr. Habibullah Ghaleb, to discuss the draft which was subsequently finalized and sent to other committees for their input.

Joint Committees

Communication Services Regulatory Law

The Bill is drafted in accordance with Articles 10 and 37 of the Afghan Constitution which aims to enhance and develop telecommunications services, organize and monitor telecommunication markets and govern business relationships between the Ministry of Communications, service providers and customers.

Status: A joint committee of the houses discussed the law and approved all articles except a Meshrano Jirga modification to Article 10 which would establish an “executive board.” Wolesi members are unclear of the board’s role and responsibilities and have requested an explanation.

Organization and Jurisdiction of Courts Law

The law will regulate the structure, staffing, and rights and responsibilities of the courts. Under the law, the Supreme Court, as the highest judicial authority, has the right to overturn or amend decisions of the lower courts.

Status: One of the clauses in this draft makes it possible for the Wolesi Jirga to summon the judges to explain a particular issue. The Meshrano Jirga has blocked this and argued for the independence of the Supreme Court. The WJ is waiting for a joint committee to discuss the matter further.

Acronyms

NA: National Assembly

MJ: Meshrano Jirga (Upper House)

WJ: Wolesi Jirga (Lower House)

NCPJ: National Consultative Peace Jirga

RAB: Reconciliation and Amnesty Bill

ⁱ Article 94 of the Constitution: “In the case the President rejects what the National Assembly has approved, the President shall send it back, within 15days from the date it was presented, to the House of People mentioning the reasons for rejection, and, with the expiration of the period or if the house of people re-approves it with two thirds of all the votes, the draft shall be considered endorsed and enforceable.