



**USAID**  
از طرف مردم امریکا  
د امریکا دولس لخوا

AFGHANISTAN  
PARLIAMENTARY ASSISTANCE  
PROJECT

17 May 2010 Vol. 3, No. 12

# Legislative Newsletter

## News

### **Wolesi Jirga continues language debate**

The draft Higher Education Law again stirred controversy in the Wolesi Jirga last week over the use of Dari vs. Pashtu terminology. The Wolesi Jirga had previously returned the draft to the government pending ‘clarification’ by the yet-to-be-established Independent Commission for Overseeing Implementation of the Constitution (ICOIC) of what constitutes ‘national terminology’ as referenced in Article 16<sup>1</sup> of the Constitution. In previous deliberations, the WJ had failed to agree on which of the two terms, the Pashtu ‘Pohantoon’ (پوهنتون) or the Dari ‘Danishgah’ (دانشگا) to use to for ‘university.’ ‘Pohantoon’ has been used for a considerable period in official documents, including Dari language documents, but Dari speakers had sought the use of Danishgah.

Still lacking the sought after definition, MPs last week debated, at times in strong terms, the most recent government version, which adopts the use of both ‘Pohantoon’ and ‘Danishgah’ in the Dari translations while the Pashtu document includes only ‘Pohantoon.’ The use of both terms in the Dari document did not rest well with some MPs, who argued that inclusion of the Dari term contravenes Article 16, which calls for the preservation of ‘academic and national administrative terminology.’ “Putting this bill to a vote with ‘Danishgah’ included for ‘university’ is against the Constitution. If some people want that included, a Loya Jirga must be called<sup>2</sup>,” argued Aryan Yoon (Nangarhar).

---

<sup>1</sup> Article 16 of the Constitution: “From among the languages of Pashtu, Dari, Uzbeki, Turkmani, Baluchi, Pashai, Nuristani, Pamiri (alsana), Arab and other languages spoken in the country, Pashtu and Dari are the official languages of the state... The state adopts and implements effective plans for strengthening, and developing all languages of Afghanistan. Publications and radio and television broadcasting are allowed in all languages spoken in the country. *Academic and national administrative terminology and usage in the country shall be preserved*”

<sup>2</sup> According to Article 150 of the Afghan Constitution, any amendments to the Constitution require a Loya Jirga, or grand assembly.

Some of those opposing adoption of 'Danishgah' did so on the grounds that it would trigger a campaign to rid national and administrative terminology, including most military ranks and commands, of all Pashtu terms.

In contrast to the view held by many Pashtun MPs, Dari speaking MPs, advocating for the use of 'Danishgah,' cited the 'spirit' of Article 16, which they argue encourages use of Dari terminology. "Other institutions like the Ministry of Education use both Dari and Pashtu names – why can't we call the university in both languages?" asked Ahmad Shah Behzad (Herat). Supporting Behzad, Sultan Mohammad Awrang (Badakhshan) added, "I am a Dari speaking Tajik, I should have the right to speak in my mother tongue."

Lamenting the WJ's failure to compromise on the language issue and pave the way for the draft's approval, Haji Mohammad Mohaqeq (Kabul) said, "With the current attitudes, I am afraid to say that [the issue] may remain unsolved for another ten years."

Other MPs reiterated the oft stated position that the president should take steps toward establishing the ICOIC to interpret contested sections of the Constitution. "We should leave this to the ICOIC. We should let them interpret the last clause of Article 16," argued Sayed Hashim Fulad (Nangarhar).

Speculation is circulating over motivations behind the controversy. Some argue that Iran is influencing certain MPs to push the use of Dari to rid the language of non-Dari terms. Others contend that, although the issue appeared in Parliament at the first appearance of the draft Higher Education Law a few years ago, ethnic politics in an election year is playing into the debate.

Notably, Abdul Kabir Ranjbar (Kabul), a member of the Constitutional Commission responsible for drafting the document, explained that the last clause of Article 16 resulted from a compromise over designation of the national language(s) of Afghanistan.

## **New parliamentary candidates list published**

The preliminary list of candidates for the Wolesi Jirga has been published. Assembly management has informed APAP that around 200, or 83 percent, of incumbent MPs (excluding those deceased during the current term) have presented themselves as candidates.

APAP spoke with a few of the more prominent figures who have decided not to stand again and found a mix of reasons. This included former President Burhanudin Rabani (Badakhshan), who explained that, "It's time to make space for the new generation." Echoing Mr. Rabani's sentiments, Attaullah Ludin (Nangarhar) said that, "I don't want to give the new generation the

impression that the current MPs are the leaseholders of Parliament.” The MP also explained that because, in his view, the government is “intent on making Parliament a failure,” he chose not to run again.

Citing what he sees as structural deficiencies in the electoral process, Faizullah Zaki (Jawzjan) explained that “The SNTV<sup>3</sup> system is the reason why I am not running again. I would be up against three members of my own party. If I become an MP, it will be at their expense.”

Others listed personal concerns, including Sabrina Saqeb (Kabul), who explained that she “would like to focus on continuing my education.”

### Running in Kabul

Interestingly, a number of incumbent MPs have changed their constituency from their original province to Kabul. “I chose Kabul because I think I have a good chance of winning here too,” said Mohammad Gulabzoy (Khost). “This way, other people in Khost who don’t have a chance to win in Kabul can get to the WJ as well.”

Saleh Mohammad Registani, who represented Panjshir (which holds only two seats) prior to departing the Assembly before completing his term, appears to agree with Gulabzoy’s reasoning and has registered in Kabul.

“Fazlullah Mujadidi (Logar) explained that “Security is worsening in Logar, and there have been some threats against me. I don’t want to jeopardize my life or the voters by registering there.”

## **Senators concerned with security of Provincial Councils**

The Meshrano Jirga (MJ) on May 11 accused Nimroz Province security officials of dereliction of duty and called on the government to charge them with negligence. The verbal attack follows several Taliban attacks on the Provincial Council, which last week culminated in the death of a female member of the council and a council secretary.

The senators, while condemning the Taliban attack, also accused local security officials of failing to respond promptly. “Based on my information, there was a gun battle continuing for one and half hours between the security guards of the Provincial Council members and Taliban fighters, but not one of the provincial security forces arrived on time. Finally, Gul Makai and some of the security guards were killed on the spot,” said MJ First Deputy Speaker, Fazal Hadi Muslimyar.

---

<sup>3</sup> Single Non-Transferable Vote system, under which candidates run as individuals.

Muslimyar called for the suspension and prosecution of the high ranking provincial security authorities. In his view, a prompt response would have prevented a number of deaths. “It is our responsibility to distinguish good and bad. Whoever is found to be negligent should be removed from that post and replaced by honest people,” he said.

A Nimoz senator, Khairun Nissa Ghamai, however, supported the security officials. In her view, they reacted in a timely manner but lacked the capacity to effectively engage the Taliban. She said that several attacks that day prevented the forces from covering them all in a prompt manner. “The security institutions participated in fighting with the militants. Every institution has had some casualties. They could not cover several places at the same time,” Khairun Nissa asserted.

Nissa argued further that the provincial security institutions are battling multiple forces, including the Taliban, Iran, Pakistan and smugglers. “The U.S. and NATO offensive in Marja District of neighboring Helmand Province forced many Taliban fighters to flee to Nimroz. If the government does not strengthen the National Army and police in the province, we will witness more fighting and deaths,” she warned.

Concluding the discussion on the deteriorating security situation in Nimroz province, the senators resolved to invite the Attorney General and his deputy to one of its plenary sessions and called for an investigation of the Nimroz security organs as well as deployment of additional Afghan army personnel to boost the current numbers.

## **MJ calls on government to assist the 14 provinces affected by floods**

The Meshrano Jirga (MJ) this week made an impassioned plea to the government to take steps to assist 14 provinces affected by floods earlier this month. In a plenary session chaired by Deputy Speaker Mohammad Alam Ezedyar, senators expressed concern over the human and financial losses resulting from the floods and called on the government to help those affected. The Ministries of Rural Rehabilitation and Development (MRRD), Public Welfare (MoPW), director of the Red Crescent and chairperson of the National Directorate of the Fight Against Disasters attended the May 5 plenary session to brief the senators on flood damage.

The officials reported on the extent of the human impact, which includes around 90 deaths and 221 injuries, and infrastructure damage. Additionally, indications are that 10,000 livestock perished and 1,056 houses were destroyed. The road network has also been badly damaged in some areas, making the flooded areas inaccessible. According to the officials, plans were underway to provide food and medicines to the affected areas, via air, if necessary. “The MRRD

was assigned the task of opening up and repairing roads that have been damaged and closed due to the recent flooding,” said Mr. Jarullah Mansoori, Minister of Rural Rehabilitation and Development.

Senators were not convinced the efforts are adequate to meet the requirements on the ground. They accused the government of being irresponsible in combating the effects of natural disasters that occur on a regular basis in the country. In their view, the government is rarely prepared for disasters. “Why doesn’t the government store food and goods in those provinces that are hard to reach from air as well as roads? Why doesn’t the government anticipate natural disasters,” asked Mawen Ahmad (Ghor).

Madam Sara Surkhabi (Faryab) agreed, adding that the government had not done enough to ensure a good road network. This would have ensured the areas prone to flooding are readily accessible. “Due to their poor quality, the roads of Kohistan, Pashm Koat Districts of Faryab Province are closed for five months in a year. Why couldn’t the Ministry of Public Welfare build basic roads so the people’s problems are solved?” she asked.

In a related development, the Wolesi Jirga on May 10 established a committee comprised of representatives from each affected province to liaise with and coordinate the government assistance efforts. The MPs further invited the Second Vice President, Mohammad Karim Khalili, who is also the head of the commission responsible for helping those affected by the floods to brief the legislators on his commission’s assistance efforts to the flooded provinces.

## Legislation

### *Wolesi Jirga*

#### *Government Structure Law*

The draft law is based on the provisions of the Constitution of Afghanistan and outlines the basic structure of the government, including the executive, legislative, and judicial branched.

**Status:** The bill was active in the Committee on Justice and Judicial Affairs, Administrative Reform and the Fight Against Corruption.

#### *Financial Lease Law*

The law is proposed in pursuance of Article 10 and 13 of the Constitution for the regulation of financial lease related affairs. The objectives of the draft include development of small and medium investments through financial leases, creation and improvement of a competitive

atmosphere in the investment sector through alternative bank loan grants and creation of employment opportunities through financial leases.

**Status:** The Wolesi Jirga National Economic Committee amended Articles 13 and 14 of the bill. Under the draft, after the acceptance of the leased property by the lessee, the loss of the leased property or inability to use the property shall not free the lessee from any contract obligation. The WJ approved the bill on May 15.

### ***Meshrano Jirga***

#### ***International Civil Aviation Organization Convention***

This Convention addresses the future development of international civil aviation.

**Status:** Meshrano Jirga plenary approved the Amendment of Article 83 sent by ICAO to member countries through the Ministry of Foreign Affairs. Afghanistan signed the ICAO charter in 1944 and has since been a member.

#### ***The Criminal Extradition Agreement & bilateral legal assistance between AF and UAE***

On October 22, 2008, the United Arab Emirates and Islamic Republic of Afghanistan signed agreements on extradition of criminals, mutual legal assistance in criminal matters, and assistance in civilian matters.

**Status:** The original text was translated from Arabic by the Ministry of Foreign Affairs. Thereafter, Legislative, Justice and Judicial Committee summoned responsible officials from the Ministry of Foreign Affairs to provide information about the agreement and the ministry's translation from Arabic. The MJ plenary subsequently approved the agreement.

#### ***Communication Services Regulatory Law***

The bill is drafted in accordance with provisions of Articles 10 and 37 of the Afghan Constitution 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:** The MJ Transport, Telecommunication, Urban and Housing Affairs, Water and Power Supply and Municipality Affairs Committee discussed proposed amendments to paragraph 3 and 4 of Article 4 of the draft. A Joint commission of WJ and MJ subsequently rejected the proposed amendments and the draft was approved in 17 Chapters and 67 Articles.