



Legislative Newsletter

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NEWS:

MPs Want the Special Court Abolished

The validity of the Special Court set up by President Karzai to investigate issues of electoral fraud came under discussion in the Wolesi Jirga (WJ) plenary of 12 February. Members of Parliament (MPs) of the WJ unanimously passed a resolution calling for the Special Court to be disbanded. The WJ's latest action followed indications from the Special Court of its intention to disqualify at least 83 newly installed MPs on findings of electoral fraud.

In response to the Special Court's announcement, the Lower House passed a resolution with the three following clauses:

1. The establishment of the Special Court is contrary to the Constitution and Electoral Law; any decision and verdict of this Court regarding the results of the Parliamentary Election is illegitimate and void.
2. In accordance with paragraph 3 of Article 64 of the Constitution, criminal cases involving the election process shall only be pursued through legal sources.
3. In accordance with Article 64 of the Constitution the President of the Islamic Republic of Afghanistan is requested to end the political crisis by siding with the people's representatives and abolish the Special Court.

The resolution was passed by 222 votes out of 224 MPs present in the plenary session. President Karzai has not formally responded to this resolution.

MPs set up a Committee to resolve the Speaker election deadlock

Following a series of internal house elections which failed to elect a speaker for the Wolesi Jirga (WJ), on 13 February members resolved to set up an informal committee to recommend a solution to break the deadlock. The committee, made up of two MP representatives from each province, was tasked with meeting to discuss possible solutions to the political and procedural impasse that has kept the Lower House from selecting a new leader since its inauguration in January.

The WJ action followed a fourth round of elections held on 12 February in which yet another new round of candidates failed to win the speaker's race. Three MPs presented themselves for election, but none received a majority of votes – 50% plus one – as required under the

WJ's Internal Rules of Procedure. The candidates received the following votes: Ms. Shukria Barezai (Kabul) 65; Mr. Aref Rahmani (Ghazni) 51; Mr. Muhammad Daud Kalakani (Kabul) 79. There were 21 abstentions and 8 votes were invalid. A runoff between the two highest vote getters still failed to identify a clear winner, with only 91 votes for Mr. Kalakani and 53 votes for Mrs. Barezai. The MPs additionally cast 56 blank and 26 invalid ballots.

In response to the latest failed round of voting, Ms. Fawzia Kofi (Badakhshan) said the four rounds of elections for the WJ speaker proved it is impossible for any candidate to win unless the Internal Rules of Procedure are changed. "We must change the Internal Rules of Procedures or else this vicious cycle will continue," she warned

Some members expressed the view that if the Internal Rules of Procedures could not be amended, an alternative should be sought. "Let's go for open votes. This way the public will know who is casting blank votes," suggested Mr. Siavash Baktash (Kabul).

The debate on possible solutions to break the speaker elections impasse continued in the 13 February plenary session. The discussion was dominated with opposing views on a possible solution. In response to repeated proposals from his colleagues to amend the WJ Internal Rules of Procedures, Mr. Abdul Rab Rasool Sayyaf (Kabul), a finalist in the first round of elections, expressed his view that such action would violate the Constitution. "If there are any amendments brought to Article 8 of the Internal Rules of Procedure, I reserve my right to assert myself as the winner of the runoff in the first round of elections," argued Mr. Sayyaf. He also added that the WJ should either refer this case to the Supreme Court, the Council of Islamic Scholars or to the Independent Commission of Oversight and Implementation of the Constitution (ICOIC).

The other finalist in the first election round, Mr. Mohammad Yunus Qanooni (Kabul), countered Mr. Sayyaf's views by arguing that the election of the WJ speaker is an internal matter and should not involve an external body. "Getting an external body involved in our internal procedures means we are not capable of sorting our own house." Mr. Qanooni argued.

Mr. Haji Mohammad Mohaqqeq (Kabul) echoed Mr. Qanooni's views, adding that handing over the unresolved election to a third body is unconstitutional. "This issue belongs to the WJ. We will find a solution ourselves by establishing an internal commission in which all the influential MPs participate," he said.

The suggestion to set up a committee of MPs to resolve the impasse resonated with most members who felt it was the only way to move ahead. "The only way to solve this deadlock is to establish an interim commission among MPs to find a way forward. This committee can then present its findings to all the Members so that we can vote on it," added Mr. Ubidullah Ramin (Baghlan).

By the end of the 13 February session, the WJ voted to set up a committee consisting of two MPs representing each province. The committee was tasked to meet separately from the regular WJ sessions and discuss recommendations to break the impasse.

Special Committee Proposes Political and Procedural Options

The special committee formed to find a solution to the challenge of electing a speaker for the WJ reported back to the plenary on 19 February. The commission presented three potential recommendations: 1) a political settlement involving the key legislators in the speakers' race; 2) refer the matter to the Independent Commission on the Implementation of the Constitution; or 3) amend the Internal Rules of Procedure.

Of the 196 MPs in attendance, 186 voted to pursue a political agreement among the key political players. The other two options were not considered for a vote. The plenary session promptly ended with the special commission retiring to discuss a possible political solution. Through the instruction of Interim Speaker Usmani, the special commission will present its recommendations to the plenary on 21 February.