



Legislative Newsletter

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NEWS:

MJ Discusses Absence of Rule of Law in Afghanistan

Meshrano Jirga (MJ) Speaker H.E. Fazel Hadi Muslemyar (Nangarhar), chaired the 15 May general plenary which discussed the absence of the rule of law in the country. The senators were in agreement that the absence of the rule of law has created a divide between the government and the people and also fuels violence.

“Corruption in government is one of the reasons the gap between the people and the government is widening and is also fueling violence in Afghanistan,” said Mr. Ali Akbar Jamshidi (Daikundi). Mr. Abdul Hanan Haqwayoun (Paktika) agreed, saying: “I think the root causes of this (corruption) is bad governance. We have witnessed occasions that the President has ordered something but one of his vice presidents has contradicted him and ordered the opposite.”

Some senators, however, blamed this on the lack of professionalism in government. “Lack of the rule of law is a direct result of lack of professionalism in the cabinet and those executing the law. You cannot become a minister or governor unless you are a member of mafia and gangs. If that wasn’t true, why would the brother of the President borrow millions from Kabul Bank and not pay it back?” Mr. Hidayatullah Rehayee (Bamyan) said. Mr. Mawlawi Mir Hamdullah Munib (Parwan) concurred, saying: “The law is only implemented on the helpless and the powerless, the powerful get away with anything. If those on the top of the pyramid were God fearing, they would implement the law.”

Echoing similar sentiments, Senator Hafiz Abdul Qayum (Nooristani) said petty thieves serve long jail sentences while “Kabul Bank looters are at large”. “The reason for lack of the rule of law in Afghanistan is that nepotism is the norm for appointments, not meritocracy,” Mr. Qayum said. Mr. Mohammad Din Hamdard (Kunduz) weighed in saying: “As long as we don’t reward the good work or punish the bad, we won’t have the law rule.”

Contributing to the discussion, Mr. Mawlawi Mohammad Faizi (Panjshir) suggested that senators develop and implement an outreach program to educate people about the law. “There is no doubt there is rampant corruption in Afghanistan, but we have to find a way out of this. I think we have to inform people about the law, especially in rural Afghanistan”

Some senators used the general discussion to question why the House was not advised of a recent visit by US Senator John Kerry. “US Senator Kerry came to Afghanistan and visited a province. We later found out that the subject of discussions wasn’t only provincial, but rather national. We have to ask the Minister of Foreign Affairs for an explanation. I know we are poor but we love our country and they should not do things that would fuel chaos in Afghanistan,” said Senator Mohammad Ismail Munshi (Jawzjan)

Mr. Nisar Ahmad Haris (Kabul) said: “This is one of the instances that show violation of the law and I echo Mr. Munshi’s sentiments. When foreign dignitaries visit, it should be in close coordination with Afghan authorities.” Mr. Maulwi Mahmood Daneshjo (Balkh) said: “It is not necessary for foreign dignitaries to land in the capital Kabul when they visit Afghanistan. The question is, did the Afghan government know about it? We can’t object to his visit unless we know whether or not the Afghan Foreign Ministry was informed of this.”

Senators Ratify Rights of Persons with Disabilities Convention

The Meshrano Jirga plenary session on 15 May ratified the Convention on the Rights of Persons with Disabilities. Presenting the convention to the plenary on behalf of the Committee of the Handicapped and Disabled, Mr. Abdul Baqi Baryal (Ghazni) pleaded with members to ratify the Convention. “This will be hugely beneficial to our people who suffer from disabilities,” said Mr. Baryal. He added, “Ratifying the Convention will mean that Afghanistan will have to focus on these people more and the level of care will have to go up to meet international standards.” The Senators unanimously ratified the measure.

Foreign Affairs Minister, President’s Security Advisor Attend WJ Plenary

The Minister of Foreign Affairs Dr. Zalmay Rasoul and the President’s Security Advisor Dr. Rangin Dadfar Spanta were back in the Wolesi Jirga (WJ) plenary on 16 May to respond to questions posed to them during the Lower House’s 4 May plenary session. Mr. Khalid Pashtoon (Kandahar), First Deputy Speaker of the WJ chaired the session. WJ members asked the two government officials to clarify the government’s position regarding the Afghan-US strategic partnership, the Second Bonn Conference and the proposed Loya Jirga.

Responding to MPs’ concerns, Dr. Spanta said, “Some of the MPs suggested that there was a difference between what we say and what the US authorities say about the US bases in Afghanistan. The question is not merely the permanent bases, its legalizing their presence in Afghanistan. This way we can bring their activities under control and re-establish the full sovereignty of our country.”

Dr. Rasoul informed members that as far as his department was concerned, whatever accord, memorandum or partnership was signed had to be ratified by the National Assembly.”

Responding to Dr. Spanta’s brief, MP Mohammad Yunus Qanooni (Kabul) proposed that the issues be discussed further in the next sessions. “In these three important matters of strategic partnership, traditional Loya Jirga and reconciliation, I suggest we allocate more time for discussion in future sessions. I appreciate what Dr. Spanta had to say, but it’s not enough,” said Mr. Qanooni.

Afghan Electricity CEO Responds to Senators’ Concerns

On 17 May, the Da Afghanistan Breshna Sherkat¹ (DABS) Chief Executive Officer Mr. Abdul Raziq Samadi attended the Upper House’s plenary session to respond to Senators’ concerns the company is overcharging its customers. Senators pointed out that citizens were not happy with the high power utility’s charges, which they said could foment violence.

¹ Afghan electricity company

Mr. Zalmai Zabuli (Zabul) said: “Kabul residents registered their complaints about the high electricity bills. Someone said that he has received a bill for 134 000 Afs (USD 2900) for two months.” Ms. Anarkali Hunaryar (Baglan) concurred, saying: “Why has the electricity price been raised? I also call on Afghan Breshna to provide electricity to the temples of ethnic minorities at the same price it does for mosques.” Mr. Abdul Hanan Haqwayoun (Paktia) said: “Bills were being prepared by Iranian experts in the company and they are paving ground for violence by sending wrong bills. Afghan Breshna must recruit Afghans.”

Some Senators accused Energy Ministry of corruption. Mr. Hidayatullah Ahmadzai (Lugar) said: “Officials of the Ministry of Water and Energy are involved in corruption. Residents of Nangarhar face a critical situation due to summer heat but the Ministry has not been able to provide them with electricity.” Ms. Najiba Hussaini (Daikundi) suggested that Afghan Breshna should establish a department to handle customer complaints and Speaker Muslemyar appealed to the power utility to assist Nangarhar with electricity. “I request Mr. Samadi to provide electricity to help the people in Nangarhar,” said the Speaker.

Responding to the House’s concerns, Mr. Samadi said: “Afghan Breshna is a state-owned company and belongs to all Afghans. The electricity we provide is heavily subsidized. The company bought electric meters from a well-known company after a survey was carried out by the World Bank. We are trying to control the misuse of electricity. The company engaged Iranian experts to remove Iranian words from electricity bills. The ministry is trying to provide electricity to Nangarhar province as soon as possible. I propose that we form a commission, comprised of representatives from the Meshrano Jirga and the Attorney General’s Office to address customer complaints.”

Lower House Defers Vote on Forest Law

The Wolesi Jirga (WJ) on 18 May postponed voting on the Law on Forests until next week due to lack of a quorum. The postponement followed a presentation on the law by the WJ Natural Resources and Environment Committee Chair Obaidullah Ramin. The Ministers of Parliamentary Affairs and Agriculture reintroduced² the law to the National Assembly on 11 May.

Presenting the legislation, Mr. Ramin said; “According to Article 15³ of the Constitution, the government needs to manage the forests of the country. We used to have 1.9 million hectares of forests in Afghanistan and I am sure the number has gone down due to illegal deforestation. We must pass this law if we are to put a full stop to rapid deforestation.”

Mr. Ramin also informed members that all of the Meshrano’s commissions, except for the Women Affairs Commission, agreed to approve the legislation in the joint session. Representing the Women Affairs Committee, Mr. Haji Gholam Sarwar Fayez (Badghis) requested the plenary to postpone voting on the law by a week to afford his committee time to review the bill. “Since we were busy with other bills, we did not have a chance to read the Forests Law and therefore we can’t approve of it. I suggest we postpone voting on it until next week.”

Without a quorum, the legislators did not vote on the bill and voting was deferred until next week.

² It was initially introduced to Parliament in 2010. The Natural Resources Committee considered the bill and held a public hearing in 2010 to solicit for public input to the law. The committee suggested some amendments and was due to submit the bill to the plenary. The law was, however, not included in the agenda for the general plenary until it was reintroduced to the WJ last week.

³ “The state shall be obligated to adopt necessary measures to protect and improve forests as well as living environment” Article 15 of the Constitution

Wolesi Jirga Briefed on Administrative Board's Meeting with President Karzai

Wolesi Jirga (WJ) First Deputy Speaker Mr. Khalid Pashtoon (Kandahar) briefed the 18 May general plenary on the Administrative Board's meeting with President Karzai on the previous day. The Lower House's leadership met the President to discuss issues relating to the Special Elections Court and issues with acting ministers.

Regarding the Special Elections Court, Mr. Pashtoon said: "We maintained that the Special Elections Court is illegal. The President promised us that he would talk to the Chief Justice to find a suitable solution."

Mr. Ahmad Shah Behzad (Herat), the Second Deputy Speaker of WJ, who was also a participant at the meeting with the President, gave more details saying: "With regards to the Special Elections Court, President Karzai said that he has also come to the conclusion that it is no longer possible to alter the election results. And if we tried to change those results, it would push the country to the brink of a crisis. Presidential Security Advisor Rangin Dadfar Spanta also said that violence will be inevitable if the Special Elections Court continued."

Regarding the senior government officials whose appointments require the WJ's approval, Mr. Behzad informed the House that President Karzai will submit the list of candidates to the WJ soon.

COMMITTEE NEWS:

MJ Committee Meets Kabul University Chancellors

The Meshrano Jirga's Religious and Cultural Affairs, Education and Higher Education Committee invited university chancellors from private universities in Kabul to its 14 May meeting.

Addressing the group of visiting chancellors, Committee Chairman Mahmood Danishjo (Balkh) said: "We invited you to this meeting to discuss your respective curriculums, the fees charged by your universities and whether or not the subject of Islamic Culture is included in your curriculum."

The academics took turns updating the Committee on number of students enrolled in each university, university fees, discounts offered to poor students, major subjects offered and the level of education of key personnel in each faculty.

Responding to the information, Mrs. Lailuma Ahmadi (Kabul) asked why there were disparities in fees charged by the different universities. The chancellors, however, attributed the different fees to varying costs faced by each institution, including rents for university facilities as well as costs to purchase and maintain expensive equipment such as laboratory apparatus and supplies.

"You recover most of the money you spend purchasing those facilities in one year. Why don't you reduce the fees once you have recovered the startup capital?" asked Mrs. Rana Tarrin (Kabul).

Bakhtar University chancellor, Dr. Hamid explained to the Senators that the funds subsidize poor students. “We provide scholarships for those poor students who obtained high scores,” Dr. Hamid said. The chancellor of Salam University, Dr. Shafiqullah Amin added that the universities are complying with the rules and regulations of the Ministry of Higher Education and they have not contravened any laws.

The chancellors also used the opportunity to highlight some of their major challenges. These included high rentals they pay for the buildings they occupy, high government taxes and electricity bills. They also suggested that the government should provide them with land to build their own structures as this would in the long run benefit students through lower fees.

Meanwhile the Religious, Cultural Affairs, Education and Higher Education Committee agreed to request the Minister of Education and the Attorney General (AG) to reinstate University of Kabul Journalism lecturer, Mr. Ahmad Zia Rafat, who was suspended from his job last month. The Committee took this decision in its 17 May meeting after discussing Mr. Rafat’s suspension.

Mr. Kamal Nasir Usali (Khost) chaired the meeting that both the Deputy Minister of Higher Education, Prof. Muhammad Osmani Babory and Mr. Rafat attended.

Prof. Babory informed Committee members that Mr. Rafat was suspended from his job following recommendations from the AG’s office. “We received a letter from the Attorney General’s Office stating that Mr. Rafat was suspected of committing crimes in the electoral complaints commission (ECC) and need to be prosecuted. The letter also said that he refused to be prosecuted and was attempting to escape from the country. Mr. Rafat was suspended in accordance to the labor law,” said Mr. Babory.

Responding to the Minister’s explanation, Mr. Rafat denied that he refused to be prosecuted. “I didn’t refuse to be prosecuted and I also didn’t attempt to escape. This is a political game. I was just a member of that commission and we worked as a team. Why just me?” he said.

Senators wondered how Mr. Rafat’s position as a lecturer was in anyway related to the role he played as a member of the ECC. “Mr. Rafat is suspected of committing a crime in his role with the Commission of Electoral Complaints, not in the university. Why was he suspended from his duty as instructor at the university?” asked Hajji Khalil Ahmad Shahidzada (Herat).

The Deputy Minister’s responses prompted some members to suggest that the Attorney General be invited to the next meeting to clarify Mr. Rafat’s case. At the end of the meeting, members resolved to write to the Minister of Higher Education and the Attorney General and request that Mr. Rafat be reinstated.

Senate Legislative Committee Discusses Security Problems in Langman

The Meshrano Jirga’s (MJ) Legislative Affairs, Judicial and Justice, Administrative Affairs and Fight against Corruption Committee on 16 May discussed security problems in Langman province. Committee Deputy Chairperson Mr. Hafiz Abdul Baqi chaired the meeting, which was attended by Police Director General Mr. Mohammad Hassan Atmar.

The Committee requested Mr. Atmar to respond to allegations that the Langman Police Commander killed his two brothers, who are members of the Afghan National Army (ANA). Mr. Shahzada, a private citizen of the same province submitted the allegations as a complaint.

Responding to the allegations, Mr. Atmar said the two men were members of a Taliban group operating in the area. He added that they were killed during a combined Afghan National Police (ANP), ANA and International Security Assistance Force (ISAF) operation. He also presented a document with the signatures of Laghman Governor, Head of Provincial Prosecution Office and chair of the Provincial Council attesting the two brothers' membership to a Taliban group.

The committee decided to refer the issue to the Langman prosecution office for determination.

Upcoming Events:

- Ministers of Interior and Defence and National Directorate of Security Director invited to the WJ plenary on 25 May
- Minister of Hajj invited to the WJ Religious Affairs Committee meeting on Tuesday 24 May.

Acronyms

Afs	Afghani
ANA	Afghanistan National Army
ANP	Afghanistan National Police
AG	Attorney General
DABS	Da Afghanistan Breshna Sherkat
ECC	Electoral Complaints Commission
IEC	Independent Elections Commission
ISAF	International Security Assistance Force
MJ	Meshrano Jirga
MPs	Members of Parliament
WJ	Wolesi Jirga