



Legislative Newsletter

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NEWS:

Wolesi Jirga ‘Sacks’ Defense and Interior Ministers

The Wolesi Jirga on 4 August passed a vote of no confidence on the Ministers of Defense and Interior. MPs were not convinced that the two had done enough to protect the country from missile attacks from Pakistan. They also accused them of failure to stop “occupation” of Afghan land by Pakistan-backed insurgents and failure to protect prominent Afghan officials, which had resulted in the deaths of two members of the National Assembly in three months. Members also accused the two ministers of corruption.

Defense Minister Abdul Rahim Wardak served as deputy Minister of Defense until 2004 when he replaced Marshal Mohammad Kazim Fahim (now First Vice President). He was reappointed in the same portfolio for a second term following President Karzai’s re-election in 2009. The Wolesi Jirga confirmed his re-appointment as Defense Minister on 2 January 2010, with 124 out of 224 members approving his nomination. Since his appointment as Minister of Defense, Mr. Wardak was summoned several times to plenary sessions of both houses to explain his ministry’s efforts to secure Afghanistan’s borders. The most recent was in March 2012 when he had to defend his ministry’s 2009 budget execution. He escaped a no confidence vote then.

Mr. Bismillah Khan Mohammadi – Ministry of Interior – served as Chief of Staff of the Afghan National Army before his appointment as Minister of Interior in June 2010. The WJ confirmed his nomination to the Interior Ministry in June 2010. He had not faced interpellation until now. Like his Defense counterpart, Mr. Khan was hauled before the WJ in early 2012 to defend failure by the ministry to spend at least 40% of its development budget in 2009. He also had then managed to convince the MPs not to interpellate him.

Amplifying the cases of corruption, Kabul legislator Mr. Jafar Mehdawee accused the two ministers of filling vacant posts in their respective ministries with their relatives and issuing contracts to companies with personal links to high-ranking officials in the two ministries.

On security lapses, Mr. Zalmai Mujadedi (Badakhshan) said that Pakistani missiles launched on Afghan soil in the last year have killed many civilians, and destroyed numerous homes. “The NDS recently informed MPs that Pakistani forces advanced up to 5km into Afghanistan and the border police has retreated from these areas.” He further questioned the MoD why heavy weapons inherited from the Taliban era have not been used to protect Afghanistan from Pakistan.

Ms. Shukria Barakzai (Kabul) stressed the importance of having the Afghan security forces in full control by 2014 saying, “2014 would be a critical year for Afghanistan. We will be facing two major events namely; transfer of security responsibilities from international forces to Afghans and the presidential election.”

Legislators lambasted the ministers' failure to seek assistance from the United States in line with the provisions of the recently signed Afghan-US strategic Partnership Agreement. Mr. Neili further asked the Defense Minister to brief members of the recent tripartite meeting between Pakistan, International Security Assistance Force (ISAF) and the Afghan government.”

Responding to questions posed by the MPs, Defense Minister Wardak said, the Afghan National Army has identified the launch site of the Pakistani missiles and shared this information with the international community and ISAF. He added that his ministry has taken necessary steps to defend the country in the same manner it responded to missile attacks in Khost and Paktika provinces. “I know we do not have modern weapons, but all lieutenants and generals are ready to take action if the president issues an order in accordance with the provisions of Article 64 (4) of the constitution.”

Interior Minister Mohammadi in his turn said the Afghan National Army (ANA), Afghan National Police (ANP), and National Directorate of Security (NDS) have excellent coordination mechanisms and are ready for the presidential order to respond to Pakistan's artillery attacks.

Both ministers disputed allegations of corruption and embezzlement of funds in their respective ministries. “Such rumors are spread by foreign contractors, in fact in most cases, foreigners are less transparent than Afghans,” said Minister Wardak.

Following the ministers' responses, Speaker Mr. Abdul Rauf Ibrahimy (Kunduz) called for a public vote to decide whether or not members were convinced by the ministers' explanations. The vote was split 86:86. Members were divided on how to proceed with some MPs calling for a second round of voting while others moved for a secret ballot to decide whether or not to agree with the results announced by the Speaker. A third group suggested that the Speaker casts a deciding vote to conclude the matter.

Despite an initial reluctance by the Speaker to cast the deciding vote, he eventually raised his red card to indicate that he was not satisfied with the two ministers' explanations. Members subsequently used a secret ballot to pass a no confidence vote on the two cabinet ministers. 72 members voted for Minister Wardak to continue in his role while 146 voted to dismiss him from his post. There were 5 abstentions and four blank ballots. Minister Mohammadi received 126 no confidence votes. 90 voted for him to remain in his portfolio. There were 5 abstentions and 7 blank ballots.

Meanwhile President Hamid Karzai issued a statement on August 5, advising the Afghan Security Council backs the decision of the WJ to sack the two security ministers. The statement added that the two would be retained as “Acting Ministers until new appointments are made.” No timeline was given as to when the new appointments will be made, sparking an outcry by MPs who argued that the decision to retain the two on an interim basis contravenes the Law on Acting Minister¹.

Wolesi Jirga Tightens Oversight on Execution of Development Budget

Following the Public Accounts Sub Committee's presentation of an oversight report of 17 budgetary units to the Wolesi Jirga (WJ) plenary session, ministers who spend less than 50% of their development budget would be interpellated and or handed over to the judiciary for prosecution.

¹ The WJ passed the Law on Acting ministers in June 2010 by a two-thirds majority vote. The Law limits the term of office for acting ministers in case of rejection, resignation, impeachment, death of a minister as well as incurable disease to one month

In February 2012 WJ 1389 QATIA review report showed that during 1389 the development budget execution was below 50%. The Plenary decided to summon all the budgetary units whose execution rate is below 40%. 15 ministries and two independent directorates fell under this range and were called for questioning to the plenary session. After discussing the issue for a few weeks, the plenary tasked the budget committee to review their reports and justification for low execution and came up with a report to the plenary. The budget committee assigned the newly established Public Accounts Subcommittee to review these reports. The subcommittee presented its report to the plenary, which decided that in future any budgetary unit with an execution rate below 40% will be summoned for interpellation.

According to Mr. Sediq Usmani (Parwan), the 17 ministries and general directorates claimed that the deteriorating security situation, donors' failure to honour commitments, lack of capacity in some ministries, changes in the leadership of the ministries, and intervention of the judiciary were some of the reasons why the ministries spent less than 40% of their budget. He added that submissions from the Ministry of Higher Education (MoHE), the Afghan National Standard Authority (ANSA) and Independent Directorate of Local Governance (IDLG) did not satisfy the committee. "The House has to make a final decision on whether to interpellate or prosecute the heads of these four budgetary units," he said.

A number of MPs expressed concern over the failure to prosecute ministers or other government officials for failure to spend the required threshold of their budget allocations. According to the Ms. Shukria Barakzai (Kabul) in future such ministers should be automatically interpellated.

Concluding the session, the Acting Chair of the house, Mr. Sheikh Nematullah Ghafari (Helmand) the Second Deputy, asked the secretariat to distribute the report and the reasons/justifications of the budgetary units to all the MPs so that the House will make a decision on whether to summon the ministers or refer them to judicial organizations during forthcoming plenary sessions.

MJ Discusses Non-implementation of the APTTA Agreement

Senators on 7 August invited the Foreign Affairs Minister Zalmi Rasoul, Mr. Anwarulhaq Ahadi (Minister of Commerce) and Mr. Tawfeeq Dawari (Afghan Chamber of Commerce) to discuss Afghan traders' problems in transporting their goods through Pakistan and efforts to push for the implementation of the Afghanistan Pakistan Trade and Transit Agreement (APTTA) that the National Assembly ratified in August 2011.

The plenary opened with Meshrano Jirga (MJ) National Economic Committee chair, Mr. Abdul Wahab Irfan (Takhar) reminding the House that the APTTA was signed to promote regional trade between member states and facilitate easy passage of goods through Pakistan and Afghanistan to China, India and other regional countries. Mr. Irfan also highlighted some of the problems Afghan traders faced in transporting their goods through Pakistan including taxes against any goods that remain on Pakistani soil beyond the "allowable" time. In his view, the Pakistani authorities impose fines of between "US\$500 and US\$700 million" a year on goods they stall at Karachi border post. He added that Pakistani authorities demanded monetary deposits to guarantee that transit goods are not sold in Pakistan. "Why has the Ministry of Commerce failed to develop a trade strategy that would ensure Pakistani traders passing through Afghanistan pay similar fines and taxes paid by Afghan traders in Pakistan?" he asked.

International Relations Committee representative Mrs. Najiba Husaini (Appointee) alleged that Afghan traders' plight had worsened since the signing of APTTA. "What measures have you taken to ensure the implementation of the APTTA? When do you think member states would start to enforce terms of APTTA?" she enquired.

Responding to the questions, Minister Rasoul said he has been working closely with the Minister of Commerce to find a solution to the problems Afghan traders encountered in Pakistan. He added that he and the Afghan Ambassador to Pakistan had met with their Pakistani counterparts to discuss the issue. “The Pakistan authorities agreed to the full implementation of the Agreement, but are yet to begin to enforce it,” said Minister Rasoul.

On his turn, Minister Ahadi said he had managed to find solutions to some of the Afghan traders’ problems. “We have been successful in solving some of the problems, the Pakistani government initially imposed a 20% guarantee from Afghan traders that their goods would indeed leave Pakistan. This figure has since been revised downwards to 1%.” Mr. Ahadi added that an Afghan-Pakistani Transit Trade Commission (APTICO) consisting of officials from Afghanistan and Pakistan has been established to find solutions to the bottlenecks in implementing APTTA. “Unfortunately Pakistan has not been attending the APTICO meetings. We cannot afford a transit war with Pakistan as we stand to lose more. The president is totally against a transit war with Pakistan because 70% of our exports are sold in Pakistan. Pakistan is the cheapest route for Afghan traders,” he told the House.

Updating members on non-implementation of APTTA, Afghan Chamber of Commerce representative Mr. Dawari said, “Around 110 containers arrive in Karachi everyday but Pakistani authorities only clear 60 of them and impose demurrages on the remaining containers . . . Containers are stopped for illegal searches and taxes illegally imposed on goods.” He added that APTICO has held two meetings to date, which unfortunately were not effective. “We should take advantage of the presence of the international community and use them to help Afghanistan in this regard.”

GENDER:

Women Affairs Committee Tackles Gender-Based Violence

The Wolesi Jirga’s Women Affairs Committee on 5 August resolved to take practical steps to quell escalating gender-based violence across the country. The committee meeting tasked the Ministry of Hajj and Endowment with preparing a training manual incorporating provisions of the Law on Elimination of Violence Against Women for use by religious scholars. The committee also called for a review of the “Prosperous Family” book prepared to show how a prosperous Islamic family operates. The meeting also agreed to establish an advocacy committee to take prompt action against cases of violence and reminded the media of its responsibilities in reporting objectively on cases of violence.

Opening the meeting, committee chair Ms. Fawzia Koofi (Kabul) asked participants to identify causes for the rise in incidents of violence against women across the country and come up with practical solutions to overcome this challenge as the issue of violence has become political. “Civil Society organizations are always making notable efforts to combat violence against women but they cannot be effective until government pays attention to this issue,” said Ms. Koofi. She added that at the Tokyo Conference the government undertook to respond to each and every case of injustice against women in Afghanistan. “The recent kangaroo court in Parwan province by Taliban highlights the extent of the problem . . . No steps have been taken to apprehend the criminals . . . We hear of a number of cases of violence everyday but we hardly hear of any perpetrators being prosecuted for their crimes.”

The meeting cited several reasons for violence against women. These included lack of awareness of Islam, illiteracy, economic poverty, effect of three decades of war in Afghanistan, drug abuse, lack of coordination between the government and relevant organizations, ineffective border control, failure to provide electronic national identity cards (Tazkera), failure to prosecute perpetrators of violence against women, a poor crime detection department that cannot effectively implement laws in support of women such as Elimination of Violence Against Women Law (EVAW), general lack of awareness of people’s

rights, over-reliance on mediation for most of the violence cases and shortage of trained and empowered female police officers.

Participants were also of the view that the main weapon in the fight against gender-based violence is the preacher in the mosque raising public awareness on women's rights in Islam and prohibition of violence against them. The Ministry of Hajj reported that steps had been taken towards to this end, which includes publication of a book titled "Prosperous Family". The book will help society to better understand and respect each other's rights and will gradually reduce violence against women. There was also a proposal to run a national schools competition on EVAW law to raise public awareness on domestic violence.

After a protracted debate on how best to address the issue at hand, the committee decided there is a need to improve awareness and training on the EVAW law by all and at all levels starting with the Friday prayers where preachers should teach people about Islam and respect for women. The committee also resolved that the Ministry of Hajj and Endowment prepares training manual covering articles of EVAW law in order to train the preachers. Four civil society activists were tasked to take the lead in reviewing the "Prosperous Family" book and prepare a summary that would be distributed to the public.

Deputy Ministers of Women Affairs and Hajj and Endowment and 17 representatives of local CSOs and international non-governmental organizations attended the meeting.

LEGISLATION:

Wolesi Jirga:

The Wolesi Jirga this week passed the following agreements and conventions:

1. Strategic Partnership Agreement between the Islamic Republic of Afghanistan and Italy. The agreement provides that Italian troops will remain in "training missions with the Afghan National security Forces and assisting in other sectors" beyond 2014. Under the agreement, Italy will also invest in demining in Afghanistan.
2. International Convention For The Suppression Of Acts Of Nuclear Terrorism (Nuclear Terrorism Convention). The Convention encourages member states to cooperate in preventing terrorist attacks through information sharing, investigating and punishing acts of nuclear terrorism and assisting each other in investigation and extradition proceedings.
3. South Asian Association For Regional Cooperation (SAARC) Agreement on Trade in Services. The objectives of the Agreement are to "to promote and enhance trade in services among the Contracting States in a mutually beneficial and equitable manner by establishing a framework for liberalizing and promoting trade in services within the region."

Meshrano Jirga

1. The Meshrano Jirga passed the Law on Transit on 7 August. The Law was drafted to regulate all transit affairs including provision of facilities for the transit of goods and insuring their protection.