



# Legislative Newsletter

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## NEWS:

### **Iran Should Not Interfere in Afghan Affairs, Say Senators**

Senators in the Meshrano Jirga on 27 March criticized Iranian President Mr. Mahmoud Ahmadinejad for making irresponsible statements about Afghanistan and called on Iran to stop interfering in Afghan affairs. The criticism followed President Ahmadinejad's statement at the Dushanbe Summit where the Iranian leader said, "The occupiers who came to this nation [Afghanistan] from kilometers away are not here to aid the government and the people of Afghanistan but are here to loot the resources and mines of Afghanistan."

Raising the issue in the plenary Mr. Bashir Samim (Badakhshan) criticized President Ahmadinejad, saying his assertions are not acceptable to the people of Afghanistan. "His claim questions Afghanistan's sovereignty. The Iranian president considers himself president of the region. We should condemn his claims," said Mr. Samim.

Mr. Daoud Assas (Zabul) concurred, "Iran should stop interfering in Afghanistan immediately. The Afghan people strongly condemn Mr. Mahmoud Ahmadinejad's recent comments." Mr. Nesar Ahmad Harris (Appointee) agreed, "Why is Mr. Ahmadinejad interfering in Afghanistan's affairs? Iran and Pakistan's interference has ruined this country. I urge Mr. Speaker to issue a statement condemning Mr. Ahmadinejad's assertions."

Mr. Abdul Hanan Haqwayuon (Paktia) criticized President Karzai for not responding to comments by the Iranian president. Ms. Najiba Husaini (Appointee) said, "This is not the first time that Mr. Ahmadinejad is issuing such statements . . . The Ministry of Foreign Affairs should lodge a formal complaint."

Adding to the chorus of condemnation, Mr. Khaleqdad Balaghi (Kabul) also strongly criticized President Ahmadinejad's statement, which he deemed irresponsible. "His assertions are more dangerous than the interference of Pakistani's Inter-Service Intelligence (ISI) . . . Iran is training the Taliban and sending them back to Afghanistan," he alleged.

Concluding the discussion, Speaker Fazel Hadi Muslimyar (Nangahar) said, "The House condemns the Iranian president's assertion and the MJ will issue a statement through Radio Television Afghanistan (RTA) and the Ministry of Foreign Affairs should issue a strong reaction."

### **MJ Concerned About Quality of Education**

The Meshrano Jirga members this week discussed the need to improve the quality of education across the country and particularly in insecure province. The discussions followed the release of the university entry examination results on 23 March. While acknowledging that there has been an increase in the number of students who passed the entrance tests, there was consensus between the senators that a lot still needs to be done.

Highlighting problems and challenges in the education and higher education sectors in the Meshrano Jirga (MJ) plenary session on 25 March, Mr. Mahmood Danishjo (Balkh) listed low salaries, shortage of qualified teachers and unbalanced distribution of scholarships between provinces as some of the problems in education.

Responding to Mr. Danishjo's remarks, Upper House Speaker Mr. Fazel Hadi Muslimyar (Nangahar) acknowledged that there are problems and injustices in the education sector with around 500 schools closed in various parts of the country. Concurring, Mr. Mawen Ahmad (Ghor) said the shortage of schools and qualified teachers negatively impacts students' performance in the university entry examinations. Mr. Khaleqdad Balaghi (Kabul) urged legislators to also monitor students enrolled in external universities. "The House has successfully monitored government activities inside the country but has not done anything to oversee activities of students enrolled in foreign universities. Our children are recruited by foreign intelligence agencies and used against our national interests," he said.

In his contribution to the debate, Mr. Abdul Wahab Irfan (Takhar) said, "About 158,679 students sat for the university entry tests and only 39,850 passed the examinations. A total of 108,122 failed the entry tests. Of the 6,000 students from Takhar province who sat the exam, only 1,399 passed and were accepted into institutions of higher education. The MJ should contact the Ministry of Higher Education to discuss the fate of those students who failed the examinations," he said.

Mr. Ali Akbar Jamshedi (Daikundi) said the entry tests were conducted in a transparent manner. "The Ministry of Education (MoE) does not have the capacity to accommodate all the candidates . . . We should propose that the MoE give 20 extra marks to female students and 15 to male students from insecure provinces to give them an opportunity to attain higher education." Mr. Gul Ahmad Azami (Farah) said, "It is commendable that about 40,000 students were admitted into universities this year. What would happen to the 100,000 plus students who did not pass the exams?"

Mr. Nematullah Popal (Helmand) said, "Education in Helmand province is almost non-existent. The only schools that remain open are in central Helmand Province. The MoE should consider giving students incentives that would ensure they have a chance to go to universities."

Mr. Ghulam Hazrat Nuristani (Appointee) also criticized the quality of education across the country and said 98% of Nuristan teachers are religious scholars. "I do not know how they will teach science subjects in the schools. Only five students passed the university entry examinations," he said.

Appointed Senator Najiba Husaini said, "Only 7,000 female students passed the entrance examinations. Distribution of educational scholarships is unbalanced and I heard that these scholarships are sold. The Committee on Higher Education should investigate these rumors."

In his contribution to the debate Mr. Hafiz Abdul Qayoum (Nuristan) said, "Every year 150,000 students are graduating from high schools. Failure to enroll a majority of these graduates in local universities will bring turmoil to our society. The WJ and MJ should work together to increase the higher education budget by about 2% to 5%. The government should allocate a quota for the insecure provinces in all faculties . . . Only five students from Nuristan passed the recent entry tests." Mr. Qayoum also appealed to the government to raise teachers' salaries, particularly those working in insecure provinces.

Mr. Bismillah Afghanmal (Kandahar) proposed that the MJ should summon both education ministers and ask them about the current problems and scholarships. Mr. Rafiullah Haidari (Kunar) said there is a critical shortage of qualified teachers throughout the country's 34 provinces. "We should start working to finding a solution for the problems raised in today's session. We should also go to the provinces to listen to the

students and solve their problems. Only relatives of MPs were given scholarships and sent abroad for further studies,” Mr. Haidari said.

Concluding the session, Speaker. Muslimyar said; “There was no transparency in the manner in which the entrance examinations and the scholarships were distributed across the country. If the House agrees, we will summon the Ministers of Education, Higher Education and Public Works to respond to Senators’ questions.”

### **Wolesi Jirga Discusses Law on Structure and Jurisdiction of the Judiciary Courts**

Mr. Mohammad Sarwar Usmani Farahi (Farah) and Mr. Mohammad Abdu (Balkh) presented the Law on Structure and Jurisdiction of the Judiciary Courts to the Wolesi Jirga’s 24 March plenary for a vote. The law seeks to regulate the structure, staffing, rights and responsibilities of the courts. Under the law, the Supreme Court is the highest judicial authority and has the right to overturn or amend decisions of the lower courts.

In their presentation, Masters Farahi and Abdu said two joint committees were convened to discuss the law. “A few committees were represented in the first joint committee meeting convened to discuss the law. A second joint committee meeting was subsequently held on 2 February and all the committees approved the amendments proposed by the Judicial, Justice, Administrative Reform and Fight Against Corruption Committee.”

Responding to the presentation, Mr. Nazir Ahmad Hanafi (Herat) argued for the deletion of Articles 70 to 110, adding that the Supreme Court does not have the constitutional authority to establish military courts.

Ms. Shukria Barakzai (Kabul) disagreed, saying; “The military officials often complain that the military courts release criminals who continue their destructive activities.” She added that the military courts are not transparent and corruption is rife within the military. “It is therefore important that the Supreme Court be accorded the power to preside over military cases,” said Ms. Barakzai.

The discussion continued on 26 March but again no vote was taken due to lack of a quorum. A number of MPs argued that the two articles, dealing with whether or not the military courts should be part of the Supreme Court and the retirement and extension of the judges’ term of office, should be discussed before lawmakers could vote on the law.

Mr. Mohammad Abdu (Balkh) said, “The Constitution did not anticipate military courts and the Justice and Judiciary Committee suggested including the military courts under the Supreme Courts to rectify this. The military courts would be independent from the Supreme Court.”

Arguing for judicial term limits, Mr. Mohammad Ibrahim Qasemi (Kabul) said, “Judges’ terms should not be extended so that young people are afforded an opportunity to serve as judges. The current judges are very old, most of them are now deaf or blind.”

Ms. Shukria Barakzai (Kabul) insisted that the military should be kept separate from civilian affairs while Mr. Assadullah Sahadati (Daikundi) was of the view that the military courts should come under the Supreme Court, but function independently.

Since there was no quorum Mr. Abdul Hafiz Mansoor (Kabul) proposed that MPs conclude the discussion on the law and defer voting to next week.

Concluding the discussion, First Deputy Speaker Mr. Haji Abdul Zahir Qadir (Nangarhar) tasked the Justice and Judiciary Committee with soliciting advice from the Independent Commission on Overseeing the Implementation of the Constitution (ICOIC) on whether or not military courts could be under the jurisdiction of the Supreme Court. “The Wolesi Jirga will vote on the law upon receipt of the interpretation and advice of the ICOIC,” said Mr. Qadir.

### **Senators Complain of Lack of Cooperation by Government Officials**

Mr. Fazel Hadi Muslimyar (Nangarhar), Speaker of the Meshrano Jirga (MJ) chaired the 27 March plenary session where members complained of lack of cooperation by government officials. Senators accused government officials of not according them the same respect they claim is shown to the members of the Wolesi Jirga (WJ). Some members called for a boycott of MJ business until such a time that cabinet ministers are prepared to attend MJ plenary and committee meetings.

In his opening remarks, Mr. Muslimyar told senators that a complaint had been lodged with the presidential palace in response to a refusal by Kandahar Governor Toryalai Weesa to attend Upper House plenary sessions. Governor Weesa recently snubbed invitations to attend MJ plenary sessions to respond to senators’ questions without any apology or explanation.

Mr. Rafiullah Haidari (Kunar) criticized high-ranking government officials for not treating the MJ in the same manner they treat the WJ. “Cabinet ministers are not attending our sessions, they are sending their deputies to our plenary and committee meetings.” Mr. Haidari alleged government officials give preferential treatment to the WJ because the MJ cannot pass a vote of no confidence for them. “Why is the government not cooperating? They are undermining the House. We should take serious steps to ensure government officials attend our sessions. The House should close its doors as protest against these officials,” he said.

Mr. Nesar Ahmad Harris (Appointee) on his turn said the fact that the House has on several occasions discussed problems in Kandahar does not mean that the MJ has issues with Mr. Weesa. He added that following Mr. Weesa’s recent allegation that the MJ sent a phony senator to the province, Mr. Weesa was summoned to the House about the matter as well as allegations that he has been selling government land. He did not comply however. “The House decided in previous sessions that Mr. Weesa should be referred to the Attorney General’s office and be removed from his position,” he said, further alleging that the Mr. Weesa was spying for the Canadians. “The Canadian government backs Mr. Weesa because he is spying for them, which is why the Canadians want him to remain Kandahar governor. There are parallel governments inside the government and this is destroying our country,” said Mr. Harris.

According to Mr. Gul Ahmad Azami (Farah), some high-ranking officials are afraid of attending the MJ sessions because they are involved in the usurpation of government land. He urged the House to hold a joint session with the president and cabinet to discuss this issue.

Calling on the media to broadcast the day’s deliberations, Mr. Daoud Assas (Zabul) said, “We cannot do anything without government cooperation . . . If government officials do not attend MJ sessions then there is no need for us to conduct any business. We should leave the House in protest.”

Mr. Mahmood Danishjo (Balkh) suggested that the House should summon Independent Directorate of Local Governance (IDLG) Director Mr. Abdul Khaliq Farahi and ask him to ensure the Mr. Weesa attends the MJ session. “If Mr. Weesa does not come then we should ask Mr. Farahi to resign,” he said.

Mr. Ghulam Mahiuddin Munsif (Kapisa) said government officials are bound by law to attend the sessions and urged the House to give the Minister of Parliamentary Affairs Dr. Hamayoun Azizi a list of officials who have ignored requests to attend MJ sessions.

Closing the session, Mr. Muslimyar informed members that the Upper House leadership would invite Parliamentary Affairs Minister Dr. Azizi to the 7 April plenary session to discuss the issue.

## **COMMITTEE NEWS**

### **Wolesi Jirga Committee Considers Second Budget Draft**

The Wolesi Jirga Budget and Economic Committee on 28 March met to discuss a second budget draft from the Ministry of Finance (MoF). The revised proposal incorporated changes intended to address issues raised by MPs in their review of the government's first budget, which was rejected on 18 March. Representatives of other Lower House committees and Deputy Minister of Finance Mohammad Mustafa Mastoor also attended the committee meeting.

The House criticized the MoF three-page document claiming that it did not adequately respond to the majority of issues, which triggered the initial budget rejection. Rejecting the first budget proposal, MPs had said that too many funds were allocated to the President's discretionary budget. The MoF subsequently reduced the allocation and diverted the funds to the Ministry of Religious Affairs for the construction of mosques. The MPs had previously proposed that the funds be allocated to the rehabilitation and construction of new mosques.

In response to MPs' earlier concern about US\$10 million set aside as commission for banks to process civil servants' salaries, the MoF reduced the allocation by US\$1 million. That amount was then subsequently allocated to the Ministry of Public Health for the construction of hospitals to treat drug addicts, bring the total budget allocation to US\$2.5 million.

The second budget draft allocated an additional US\$500,000 to the Ministry of Labor and Social Affairs for construction of a gymnasium for disabled people. In response, MoF complained that it could not identify new funds to pay for the proposed gymnasium.

The MoF added a new item in the second budget draft – an allocation of US\$3.1 million for the purchase of vehicles for the district administrators. The Deputy Minister of Finance Mr. Mohammad Mustafa Mastoor advised members that the cabinet added the line item. Members argued that the MoF had ignored most of the concerns raised by members on the initial draft on the grounds that there were no funds for projects proposed by MPs and yet the MoF proposed additional cabinet projects to the budget.

There was also an increase in the second budget draft for both Meshrano and Wolesi Jirga secretariat salaries. The MJ was allocated an additional US\$250,000 while the WJ's budget was increased by an additional US\$406,000. Funds for the newly proposed salary increases were reduced from US\$2,549,200 initially earmarked for both MP and secretariat staff salary increments in the Government's previously rejected budget. Chairman of the Immunities, Rights and Privileges of the Jirga Members Committee, Mr. Sharifullah Kamawal (Kabul) criticized the removal of the salary increments for MPs from the new budget. "There is no difference between MPs and cabinet ministers. Legislators' salaries and allowances should be equated to those for cabinet members."

The US\$80 million allocated to compensate the Central Bank for bailing out Kabul Bank remained in the Government's revised budget. Asked to explain why the MoF failed to consider MPs' recommendations to remove Kabul Bank funding, Mastoor insisted that the funds were allocated to the Central Bank and not Kabul Bank.

There was also no change in the allocation to the Ministry of Education to hire more teachers. MPs had asked for more funds to hire more teachers in order to reduce the teacher-student ratio from 1:40 to 1:30. Mr. Mastoor argued that in 1390 the Ministry of Education did not use fund it already had to hire an additional 18,000 teachers. The 1391 budget provides for an additional 11,000, therefore the Ministry of Education would have sufficient funds to hire 29,000 teachers in total to meet the targeted ratio.

Generally MPs expressed dissatisfaction with the revised budget draft and indicated that they might reject the new proposal because their concerns were not considered.

On his part, the Deputy Minister of Finance asked the MPs to identify funds to pay for their proposed revisions. He argued that the MPs have rejected his Ministry's proposals to borrow money from development banks, sell government property, print more money, increase taxes or resort to the Build-Operate Transfer (BOT<sup>1</sup>) scheme. He explained that the Constitution provides that in cases where MPs insist on budget additions, they must indicate the source of funds for those changes to be effected. Another joint committee will be held on 31 March before the plenary makes a decision.

### **WJ Internal Affairs Committee Hears Oversight report**

The Wolesi Jirga's (WJ) Internal Security Committee on 27 March heard a report on a recent field visit to detention centers under the jurisdiction of the Directorate of National Security mandate. Committee Deputy Chairman Mr. Saleh Mohammad, who headed the delegation, presented the report, which focused on detainees' living conditions and allegations of violence and torture against detainees. The Independent Human Rights Commission (IHRC) raised this issue through the media.

In his presentation Mr. Mohammad said that the delegation visited the detention centers on 25 March without any prior notification. He said contrary to the IHRC's claims, they found that the detainees are kept in good condition, with comfortable accommodation and facilities for prayer, sport, medical services and a library. "So we consider the claims by the IHRC to be baseless. The only problem that the delegation cited was the length of time to process detainees' legal cases," he said.

According to Mr. Mohammad, Committee members absolved the National Security Directorate officials of any wrongdoing and laid the blame on the Office of the Attorney for National Security and the courts. The delegation advised the committee to follow up the issue by summoning relevant government officials to resolve the lengthy legal process.

The Committee also discussed an Interior Affairs Ministry regulation regarding the import, use and licensing procedure of armored vehicles. After deliberations, the Committee members did not approve the proposed importation of new armored vehicles, claiming there are already more than enough such vehicles in the country and the government should not allow additional imports. The members also raised concerns that the import and licensing procedure was open to abuse by corrupt government officials.

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<sup>1</sup> The Build Operate-Transfer (BOT) scheme is a contractual arrangement entered into by a private sector participant (PSP) with the Government for the financing, construction, operation and maintenance of an infrastructure facility for a fixed period, after which the infrastructure facility is transferred to the Government.

Committee members also approved amending the Labor Law to declare 18 September a public holiday, “Martyrs Day”, in recognition of the martyrdom of National Hero Ahmad Shah Massood.

### **Senators Conduct Oversight Visit to Balkh Province**

The Meshrano Jirga’s Legislative Affairs Committee visited Balkh Province from 13-15 March to investigate corruption cases in the customs duty sector. Six Senators and representatives of the High Office of Audit and Control and the Customs Directorate in the Ministry of Finance were part of the delegation that sought to investigate the Balkh Customs House following allegations of corruption raised by the High Office of Anti-Corruption involving AFN3.5 billion. The committee also wanted to assess the Automatic System for Customs Duty Data (ASCODA) installed in border provinces to process vehicle imports, and determine the extent of facilities required for traders.

The delegation held several meetings with government officials in the province. Balkh Governor Mr. Atta Mohammad Noor gave an overall picture of the condition of the Balkh Customs House. He explained that he did not want to be involved in the employment of the Balkh Customs Director and heads of other financial directorates. Governor Noor also said that Anti-Corruption High Office Director Mr. Ludin made contradictory statements when he first raised allegations of having lost 14,000 vehicles, which he later changed to 21,000 before he went on to change for the third time to 65,328. “I would kindly request you to let people know the real fact and scenario regardless of who is deemed to be the culprit, even if it is the Governor of Balkh Province,” said Mr. Noor.

The delegation also met with Hairatan District Governor Judge Najibullah, who refuted Mr. Ludin’s allegation that he lost AFN3.5 billion in the Hairatan Customs House. Balkh Customs Director Mr. Mohammad Arif Hamid provided the delegation with a number of files to enable them to have proper oversight of the situation.

Mr. Ludin told the delegation over the phone that he never asked the Senators to go to Hairatan Customs House and he also declined to share any information with them, arguing that he is not accountable to the Parliament, but President Karzai.

Thereafter the delegation raised a number of questions with the Balkh Customs Director, some of which included decline of Balkh customs revenue in the last two years, goods exempt from customs duty, 1390 revenue forecast and the ASCODA system.

The General Director of Customs said that only the Ministries of Foreign Affairs and Economy have the power to issue customs duty exemptions, adding that all vehicles belonging to International Security Assistance Force (ISAF) and international organizations are exempted from customs duty. He said because of this they were only collecting around AFN8 billion in customs duty, while approximately AFN13 billion are untouchable due to exemptions.

The only problem the delegation noted was a lack of a proper system for loading goods in vehicles as the involvement of private companies made the process difficult for drivers. However, almost all drivers and traders interviewed before the delegation left the Hairatan city for Mazar-e-Sharif seemed satisfied with the current system.

## **Meshrano Jirga Committee Debates Provincial Council Officials' Salaries**

On 26 March, the Meshrano Jirga (MJ) Committee on Relation to the Provincial/District Councils and the Immunities and Privileges of the House met with representatives of nine provinces to discuss issues relating to salaries paid to provincial council officials. Wolesi Jirga Immunities and Privileges Committee Chairman Mr. Sharifullah Kamawal and provincial council members from Kapisa, Panjshir, Ghazni, Badakhshan, Logar, Parwan, Takhar, Kabul and Langman all attended the meeting.

The Provincial Council members complained that the Local Government and the Independent Directorate of Local Governance (IDLG) were not providing them with transport, budget or security assistance when they traveled for meetings and gatherings in the districts with their constituencies.

Ms. Nafisa Hijran, a member of the Logar Provincial Council suggested that their monthly salary be raised from AFN23, 000 to at least AFN50, 000Afs or provide them facilities and privileges such as per-diem, car, petroleum, credit card and petty cash. She also suggested that the Government must allocate a specific building for each provincial council. Ms. Hijran reminded the committee that two-thirds of the MJ members were previously members of Provincial Councils, yet now they enjoy many facilities and privileges while Provincial Council members do not have anything.

Badakhshan Provincial Council Chairman Mr. Zabiullah Atiq narrated to the Committee an incident when they had collected money from their members to facilitate a visit to victims of avalanches in Arghistan district of Badakhshan Province.

Concluding the discussion, the Committee Chairman Mr. Mukaram Khan Nasiri said he would convene a joint meeting with the Wolesi Jirga's Immunity and Privileges and Budget Committees to discuss problems raised by the provincial council representatives. He added that they would also invite the Independent Directorate of Local Government and Budget Director of the Ministry of Finance on 27 March.