

Legislative Newsletter

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NEWS:

Legislators Condemn Imran Khan's Statements

An alleged call for the conduct of “Jihad” in Afghanistan, by Imran Khan, a former international Pakistani cricketer now turned politician, was widely condemned by legislators. Imran Khan has been in the headlines lately following his attempt to lead a march to the border areas of Pakistan to protest US drone strikes in Pakistan. His statements on Afghanistan drew sharp criticism from members of both houses in the National Assembly.

Legislators in different plenary sessions, called the statements clear interference in Afghanistan's internal affairs. Coming at the same time that the National Assembly was expressing its sympathies with Malalai Yousofzai, a 14 year old activist who was gunned down by the Taliban in the border areas, the Imran Khan statements presented a clear contrast of opinions and emotions. “Imran Khan does not have the right to issue fatwa (religious decree). Pakistani politicians are issuing verdicts that people should go Afghanistan for Jihad and unfortunately we are sympathizing with Malala Yousafzai who was injured by Taliban recently in Swat Pakistan.” Mr. Daoud Assas (Zabul) commented. Ironically, Imran Khan is reported to have made the statement that has led to the barrage of criticism from Afghan officials while visiting Malala Yousufzai in a military hospital.

Senator, Mr. Rafiullah Haidari (Kunar) had called on the Mesharano Jirga to seek clarification from the Pakistani government whether Mr. Imran Khan's assertions represented the views of the Pakistani government or not. He said, “As representative of the people I condemn the assertion of Mr. Imran Khan and the House should condemn it too. Equally in the lower house, calls were made by members for the president of Afghanistan to request an explication from Pakistan. Members such as Mr. Sayed Mohammad Akhund (Kandahar) while condemning the statements by Imran Khan and called on the Afghan Council of Ulema to not only voice its position “against the enemies of Islam but also announce Jihad in Pakistan.”

Participating in a Wolesi Jirga plenary, Ms. Fawzia Kofi (Badakhshan) expressed her perplexity following Imran Khan's Jihad comments, according to her, “It's interesting for Afghan people, because six months ago Imran Khan was supportive of the western countries, but now he is trying to please his country's spy agency the Inter-Services Intelligence (ISI) through such statements.” She further suggested the committee of International Affairs of the Wolesi Jirga should release a statement against all those personalities who declare Jihad in Afghanistan, “The committee of international affairs should indicate in the letter that such irresponsible remarks are against all international principles and good neighborhood, and Afghanistan strongly condemn such

remark.”

Mr. Assadullah Sahadati (Daikundi) speaking in the same plenary criticized the local media for broadcasting the Anti-Afghan propaganda by foreigners, especially Pakistan. “The local Afghan Media should consider their national interest.” He added.

In a move aimed at quailing the anger of members following the statements and the reported continued shelling of border provinces such as Kunar by Pakistani forces, the Deputy Secretary of WJ, Mr. Farhad Azimi announced to the media that President Hamid Karzai would meet members of parliament to discuss the issue.

Karzai’s Pakistani Letters Criticized

Wolesi Jirga lawmakers in the 15th October plenary session, roundly criticized president Hamid Karzai for sending letters to political and religious leaders in Pakistan. The President is reported to have sent a series of letters to politicians and religious leaders in Pakistan following the shooting of Malalai Yousofzai and the statements by Imran Khan calling for jihad in Afghanistan. The president is reported to have called for a joint fight against terrorism with the Pakistan government.

Criticizing the move by president Karzai, Mr. Ghulam Hussain Nasiri (Wardak) said, “When President Karzai sends letters to Pakistani leaders, especially to Mr. Imran Khan; this affirms him (Imran Khan) as a national and religious scholar in Islamic countries and his own country Pakistan.” He further added “those who call Afghanistan and its nation occupied, the president should not write letter to. The president could send letters to everyone, except Imran Khan, with this letter he affected the prestige of Afghanistan.”

Echoing the sentiments, Mr. Abul Satar Khawasi (Parwan) remarked, “We agree with you, the letter should not have been sent to this man, he has insulted our country and our people.”

Wolesi Jirga Summons the Emergency Response Committee

The Emergency Response Committee (ERC) came under fire during a heated session in the Wolesi Jirga on 17 October. So intense was the discussion that the session that began with over 125 members present, had less than 40 members present at the end of the session after MPs predominantly from the south walked out. Much of the criticism was directed at the second vice president Mr. Karim Khalili, who is also the head of Emergency Response Committee (ERC). Having been invited to the house in his capacity as chair, as in previous years he did not appear and sent officials from the ERC to respond to members’ questions.

Expressing her frustration with the refusal of the vice president to appear before the Wolesi Jirga, Ms. Shukria Barakzai (Kabul) said “Mr. Khalili, should come to the Wolesi Jirga (WJ) to respond to MPs questions, but he unfortunately feels insulted to come.” She suggested, “The leadership of Emergency Response Committee should be rotated every six months, as the head of this

committee is responsible to Wolesi Jirga.” The MPs argued that the ERC’s chair is asked to come to the house as Vice president, but he is expected to answer questions as chair of the ERC.

Mr. Sayal, the Deputy Chairperson of the ERC briefed the house that ERC’s secretariat had allotted 90 million Afghanis to 34 provinces. “The Ministry of Public Works and Ministry of Rural Rehabilitation and Development will be busy with street sweeping, and snow removal, while the Transportation ministry will help citizen to use planes when going from one city to another,” he added. Representing the line ministries, Mr. Najibullah Awzhan, Minister of Public Work, Ms. Suraya Dalil, Minister of Health, Mr. Mohammad Aasef Rahimi, Minister of Agriculture, and the Deputy Minister of Rural Rehabilitation and Development also updated the house on recent preparations such as identifying the vulnerable provinces of Afghanistan and categorizing them as priority zones.

Disagreeing with the briefs from the members of the ERC, Mr. Hameedullah Tokhi (Zabul) claimed that ERC had done nothing. He insisted that the second vice president should come and respond to MPs questions. “He just works for his people and doesn’t care about the rest of the people of Afghanistan. This committee belongs to a particular tribe.” In protest to the absence of the vice president, Mr. Tukhi, and some other Pashtun MPs left the plenary. Supporting the decision to walk out of the plenary in protest, Ms. Naseema Niazi (Helmand) claimed that most of the children of Helmand province are suffering from malnutrition and the ministry of Health had done nothing. She also left the house saying “The MPs don’t officially recognize this (ERC) committee.”

As winter is coming most of the MPs are concerned by the government efforts to ensure roads remain accessible, the affected people are provided humanitarian protection and the ERC assist rural people facing natural disaster. Legislators were of the view that the line ministries of ERC are not coordinating properly, “The efforts are not enough and the chairman of the ERC does not act equally for all provinces,” said Mr. Abdul Hafiz Mansoor (Kabul). Agreeing with the assertion, Mr. Engineer Saheb Khan (Lugar) criticized the ERC for not having a coherent plan for the southern provinces of Afghanistan. “I agree that the second vice president just works for his own people (Hazaras) he said.

The ERC’s chair has come under sharp criticism in prior years every winter. Since 2010 the Wolesi Jirga is struggling to bring accountability to the committee. The call for summoning the chair of ERC was made in May 2010, then MPs had asked Mr. Karim Khalili to either relinquish his chairmanship of the Emergency Response Committee (ERC) or accede to the lower house’s invitation to the plenary. He did not respond to either calls.

Concluding the session, speaker Ibrahim (Kunduz) said “due to the lack of a proper plan from the ERC for their provinces, a group of MPs protested today’s session. The ERC should revise their plans and bring transparency in distributing the food across the country.” Speaker Ibrahim, also asked the ERC to design a strategy that could better help Afghans, when facing natural disasters.

Meshrano Jirga questions effectiveness of High Peace Council

Senators on Tuesday 16 October questioned the performance and achievements of the Afghan High Peace Council (HPC). The debate came in the wake of the assassination of two children belonging to an Afghan National Police officer, by the Taliban in Ghazni province. Senators opined that in the last two years no remarkable progress had been made towards peace. They questioned the role of the HPC at a time when militants continued fighting and brutally murdered government employees, and civilians.

Questioning the effectiveness of the HPC, Mrs. Balqees Roshan (Farah) brought the attention of the House to the murder of two innocent children in Ghazni and said, “The government should review its peace policy with our opponents. With whom should we strive for peace and at what price?”

Expressing an expectation on the HPC to engage with the neighboring on issues of peace, Mr. Hedayatullah Rehayee (Bamyan) stated, “The High Peace Council has no achievement. Pakistan is always trying to disturb security and the political situation of Afghanistan, but they are quite.” Agreeing with the sentiments, Ms. Najiba Hussaini (Appointee) was of the view that the international community, the Afghan nation and the Senators are all interested in knowing about the performance of the HPC. She added that when the Afghan government signed international agreements, protocols and other documents with the international community, they all spoke about the peace process, but “The HPC’s activities are secret.” Ms Najiba Hussaini in expressing her discomfort with the veil of secrecy around the activities of the HPC articulated her understanding of the lack of information from the HPC. “They (HPC) reason that due to some sensitivities, they cannot publicize information, on peace deals and insist that when they have resolved issues, the people will be informed,” she stated.

The veil of secrecy was criticized by Mr. Rafiullah Haidari (Kunar), disagreeing with this policy of the HPC, he called their international relations department very weak. According to him, “At least the HPC should inform the people of Afghanistan about the Taliban’s major demands, the nation should know, while they keep secret the deals, at the end all we see are the wrong results coming up.” He further suggested that the peace process is not a government project, “the Afghan elders could play a significant role in achieving this goal, the HPC should ask for their support and travel to neighboring countries to convince them to take honest steps towards peace,” he concluded.

The debate in the Meshrano Jirga came a day after a discussion on the achievements of the HPC had been scheduled by the lower House. That discussion had not taken place owing to the non availability of the chair of the High Peace Council, Salahuddin Rabani who was reported to be out of the country.

Legislative Status¹

October 2012

Upper House MJ:

- **Income Tax Law**

This Law is based on the Article 42 of the Afghanistan Constitution. For the purpose of Tax determination and tax payments, government proposed amendments in articles 3, 64, 66 and 86. The WJ passed the amendments on 24 September 2012. The MJ approved the same amendments on the session held on 16 October the most important article was the article 3 which says that the fiscal year is the solar (Hejiri Shamsi) year which starts on the first day of Jadi (21 December) and ends on the last day of Qaws (21 November) of that year.

Status: Approved by MJ

- **Anti-Hoarding Law**

This Law is based on the provisions of Article 10 of the Afghanistan Constitution. For the purpose of preventing the hoarding of essential commodities, necessities of life, fighting against hunger, increases in prices and starvation situations, the Law on Anti-Hoarding was initially drafted in 1965 than it was reviewed and amended by the Ministry of Industry and Trade in 2010 and sent it to the National Assembly for approval. WJ officially received the Law on 17 September 2012 and approved it on 22 September 2012. The MJ approved the Law on 16 October 2012.

This law has 4 chapters and 12 articles. Chapter 1) discusses general provisions; chapter 2) discusses the establishing of committees for the better implementation of the provisions set forth in this law; chapter 3) discusses the obligations of persons who are engaged in trading and supplying the essential commodities as a wholesaler or retailer; chapter 4) contains the miscellaneous provisions.

Status: Approved by MJ

- **Law on Rights and Privileges of the Disabled**

The Law on Rights & Privileges of the Disabled is based on Article 53 of the Afghanistan Constitution. It is proposed in order to provide economical, social, political, cultural, educational, training, entertainment and sport support to the disabled (Women, Men and Children) to take active part in the society and protect their rights and privileges.

WJ approved the law on 3 September 2012. The Article 4, 8, 24 were amended on 16th Oct 2012 by MJ. The MJ approved the original text from the government in all amendments except paragraph 3 of the article 4. The MJ approved WJ's amendment in paragraph 3 of the article 4.

Status: Approved by MJ

¹ APAP will provide more information on laws in commissions as it becomes available- further the status of legislation will be updated accordingly in every weekly legislative newsletter.

- **Law on Rights and Privileges of the Dependents of the Martyrs & Missing Persons**

The Law on Rights & Privileges of the Martyrs and missing persons is based on Article 53 of the Afghanistan Constitution in order to provide economical, social, political, cultural, educational, training, entertainment and sport support to the disabled (Women, Men and Children) to take an active part in the society and protect their rights and privileges. The Wolesi Jirga approved amendments in the law on 03 September 2012.

Article 1, 10, 11 & 13 were amended on 16th Oct 2012 by MJ. The MJ approved the original text of the law from the government in all amendments.

Status: Approved by MJ

- **Cooperation and Friendship Agreement between the Islamic Republic of Afghanistan & France**

The cooperation and friendship agreement between the Islamic Republic of Afghanistan and France was signed on January 27th 2012. The cooperation and friendship agreement is signed based on article 64 of the Afghan constitution which says, “The state regulates the foreign policy of the country on the basis of preserving the independence, national interests, territorial integrity, non -aggression, good neighborliness, mutual respect, and equal rights.”

The cooperation and friendship agreement includes 13 articles and one preface. This cooperation and friendship agreement will be lasting for twenty years. Based on the signed agreement France will continue its support to Afghanistan in the areas such as security, agriculture, rural development, health, education, higher education, culture, archeology, good governance, infrastructure and industry.

Status: under discussion in MJ commission

- **Agreement between the Government of the Federal Republic of Germany and the Government of the Islamic Republic of Afghanistan concerning Bilateral Cooperation**

The Bilateral Cooperation Agreement between the Islamic Republic of Afghanistan and Federal Germany was signed on 16th May 2012 by President Hamid Karzai and German Prime Minister Angela Merkel in Berlin. The bilateral cooperation agreement is signed based on article 64 of the Afghan constitution which says, “The state regulates the foreign policy of the country on the basis of preserving the independence, national interests, territorial integrity, non -aggression, good neighborliness, mutual respect, and equal rights.”

The bilateral cooperation agreement is in 9 articles and one preface. Based on the signed agreement Germany will continue its support to Afghanistan in the areas such as political, security, development cooperation, civil construction, education cooperation, academic and cultural cooperation, economic cooperation, civil aviation cooperation, foundation cooperation & Afghan-German intergovernmental working group on cooperation.

Article 1 of the bilateral cooperation agreement between the Islamic Republic of Afghanistan and Federal Germany says, The Contracting Parties shall continue their political dialogue on the basis of the conclusions of the International Afghanistan Conference in Bonn of 5 December

2011. The political dialogue shall particularly focus on the areas of bilateral relations, regional and international issues, good governance, and human rights.

Status: under discussion in MJ commission

- **Kyoto Protocol,**

The Protocol was initially adopted on 11 December 1997 in Kyoto, Japan, and entered into force on 16 February 2005. As of September 2011, 191 states have signed and ratified the protocol. WJ ratified the Protocol on 3rd October 2012; the protocol includes a preamble and 27 articles. The objective of the Kyoto protocol is to prevent the industrialized countries to reduce their emissions of greenhouse gases.

Status: under discussion in MJ commission

- **Agreement on Long Terms Cooperation between the Islamic Republic of Afghanistan & Australia.**

The Agreement is signed on 12th May 2012 on the occasion of Chicago conference. The agreement is signed based on article 64 of the Afghan constitution which says, "Issue credential letter for conclusion of international treaties in accordance with the provisions of the law." The aim of this agreement is the Australian government will support Afghanistan after 2014 in the areas of security, support Afghanistan development through aid program, encourage business and investment, cooperation on migration issues and foster people to people links and help preserve Afghanistan's cultural heritage. Through the Partnership, Australia will also work with the Government of Afghanistan to build the capacity of government and national institutions to promote and protect human rights.

Status: under discussion in MJ commission.

Other Legislation under discussion in the MJ Standing Commission

- 1- Agreement of the Establishment of the International Anti Corruption Academy as International Organization
- 2- Law on the Structure, Duties and Responsibilities of the Election Commission.
- 3- Statistic Law
- 4- Amendment to the Article 61 of the Financial and Public Expenditure law
- 5- SAARC Agreement regarding the Environment

Lower House (WJ)

- **Law on Higher Education :**

The first proposal of the Law on Higher Education was initially prepared by the Ministry of Higher Education in 1989. The draft law was then discussed and scrutinized several times by the Ministry of Justice and finally the law after passing the legislation stages, based on the decree No 777, was approved and published in the Official Gazette No: 703, dated: 6/11/1989. The new draft of the Higher Education law was introduced in 2007 to the National Assembly for approval, but due to controversial terms in this law the WJ could not approve it. the government re-sent the law to the WJ in August 2012. This Law was enacted pursuant to the provisions of Article 43 and 46 of the Constitution of Afghanistan. Article 43 states that "Education is the right of all citizens of Afghanistan, which shall be offered up to the B.A. level in the state educational institutes free of charge by the state".

Status: under discussion in WJ Education commission.

- **Law on elimination of violence against women:**

The bill on elimination of violence against women was drafted by the government of Afghanistan (MOWA) in accordance with article 24 and 54 of the Constitution and based on the Afghanistan Obligation towards CEDAW International Convention, in order to criminalize all types of violence against women. This bill was then submitted to Ministerial Council for approval when the Parliament was on summer recess. The Elimination of Violence Against women law has been approved by Ministerial Council through approval number 16 on 15/04/1388 in 4 chapters and 44 articles which has been later signed by the President through Legislative Decree number 91 on 29/04/1388. Afterward this law has been published in official GAZETTE number 989 since that the law is pending with the National Assembly.

The Principle Objectives of this law are safeguarding the religious and legal rights, protecting the human dignity of women, protecting well being of family, fighting against customs and tradition practices that cause violence against women contrary to the provisions of religion of Islam, protecting the victims of violence, ensuring public awareness and education on violence against women, prosecuting preparatory of Violence against women. The law identifies all types of violence and set punishment for each types of violence. Also, this law set the preventive measures and explained and the right of victim, this law also identified the implementing organizations and determined their duties and responsibilities.

Status: under discussion in WJ Women's Commission.

Legislation under discussion in the WJ Standing Commissions

- 1- Criminal Procedure Code
- 2- Law on the Salary and Privilege of the High ranking Government officials
- 3- Law on Rights, Immunity & Privileges of the Members of the National Assembly
- 4- Law on Social Organizations
- 5- Law on Trade and contracting Agencies
- 6- Law on Telecommunication
- 7- Treaty on Energy Pact

Committees proceedings

No	Commission	Date	Agenda	Status
1	Commission on Education and Higher Education of MJ	1/10/2012	Questioning and hearing from the Chancellor of Kabul University and its heads of the faculties regarding the challenges and problems that they are facing in the Higher Education area.	The guests didn't attend the committee session.
2	Commission on Education and Higher Education of MJ	3/10/2012	<p>1. Questioning and hearing from the Deputy Minister of the Ministry of Hajj, regarding the reexamining of Mosque's Imams</p> <p>2. Questioning and hearing from the Information and Culture Minister regarding the naming of a street in Balkh province.</p>	The deputy hajj minister convinced the committee that the conduct of re-examination of Imams is for the purpose of selecting Imams with capacity for the Mosques.
3	Commission on Education and Higher Education of MJ	10/10/2012	Oversight visit to the Kabul University	The Commission conducted an oversight visit to the Kabul University to find out what challenges and problems the University faces. The delegation after having meetings with the Chancellor of the University, heard from the department heads and professors. The delegation decided to invited the Minister of Higher Education, the Chancellor of Kabul University and the Head of the Faculty of Sharia and professors to

				upcoming committee sessions.
4	Commission on Education and Higher Education of WJ	7/10/2012	Discussion over the law on higher education	The commission debated the law on higher education with professors of the Kabul University, they debated article 19 to article 30 of the law. Paragraph 2, of article 19 stated that “chancellor of the public university is indentified amongst three professors by the High Council of Higher Education Institutions and appointed by the President”. Professors of the University suggested that the appointing of the University Chancellor shall be by election from amongst professors.
5	Commission on Education and Higher Education of WJ	9/10/2012	Discussion over the law on higher education	The commission in this session debated article 31, which talks about the salary of professors. Article 31 states “Members of academic grades of the public higher education institutions are entitled to the salary and privilege of their degrees and that the amount and the way of paying it, shall be indentified in a separate regulation”. the professors were requiring an increase of their salaries but MPs opposed this due to financial implications on the

				<p>government, which cannot afford increases .MPs argued that the bill will be rejected due to its financial implications. After a long debate over this article the committee didn't reach a final decision and the session ended without any result.</p> <p>So the bill is still in the commission under debate and more debates will take place with professors of the university.</p>
6	Internal Security and Defense Affairs of MJ	11/10/2012	<p>Questioning of the Deputy Director of the National Security about:</p> <ul style="list-style-type: none"> • The general security situation of the country based on the intelligence reports. • Suicide attack in Khost province. 	The committee was provided with information about the security situation of the country and particularly the Suicide attacks in Khost province.
7	Internal Security and Defense Affairs of MJ	13/10/2012	Questioning of the Head of IDLG about the recent reshuffling of governors, criteria for appointing governors and heads of districts,	The Head of IDLG failed to appear before the committee without any justifications.
8	Internal Security of WJ	14/10/2012	<p>Discussion on the general security situation of the country.</p> <p>Discussion on the official letters received by the committee</p>	Members discussed the security situation of their concerned provinces.

9	Internal Security and Defense of MJ	15/10/2012	<p>Discussion on the general security situation.</p> <p>Hearing of the report of the committee oversight mission to Kandahar province.</p>	<p>Mr. Mohammad Amin Safi (Konar) Chairman of the committee, who led the committee delegation to Kandahar province for a field oversight mission, provided the committee members with a brief report of the committee delegation to Kandahar province</p>
10	Internal Security and Defense of MJ	17/10/2012	<p>Discussion on the Law on Structure and Authorities of the IEC</p>	<p>The committee discussed the Law from article 1-12, no amendments were proposed.</p>