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NEWS:

Parliament Calls the Minister of Higher Education over the University Entrance Exam Results

The Wolesi Jirga and the Meshrano Jirga both called the Minister of Higher Education, Mr. Obaidullah Obaid, to appear before their respective plenaries to update Members and Senators on the university entrance exams. This year there were many allegations of fraud and cheating scandals and both Houses wanted to get to the bottom of what had happened. Saying that students were the victims of religious, linguistic and political prejudice inside universities, both houses condemned the results and agreed that the President should form an independent commission to review university entrance exams results in the future.

Members and Senators asked the Minister to address complaints that: Question and Answer keys were distributed in certain provinces before the exam; different questions were given in different provinces; disparities in test scores exist in which students from seemingly education poor provinces scored higher than students from provinces with many facilities and professional teachers; and some students passed the exam but were not admitted to any university.

For the most part, the Minister did not directly respond to the Members and Senators but rather addressed the overall administration of the exam and efforts the Ministry has made in response to charges of fraud and improve services. Regarding the university entrance exam, he noted that the entrance exam is a national test that high school graduates have to pass in order to be admitted to the faculty (university) of their choosing. According to the Minister, the Ministry of Higher Education is using very advanced machines and technology to score the students' tests and only those students with high score are admitted to universities. Mr. Obaid said that they have opened 38 testing centers for the university entrance exam in the 34 provinces. 188,702 students registered to take the test, of whom, approximately 175,000 sat for the test, and, of those, 44,000 passed the test initially and will be admitted to University.

In addition, the Minister has passed a resolution in response to the petitions and complaints received over allegations of corruption which stated that those male students who received marks of 250 and those female students who obtained marks of 230 will also be admitted to the government universities as part of a second phase of admission. During this second round approximately 18,900 students will be sent to semi-higher education institutes. This brings the total to 123,615 students who will be admitted to universities and semi-higher education institutes. The Minister noted that this year the ratio of female students in universities has improved; it is currently 25%.

In addition, Mr. Obaid stated that the Ministry has established 28 new faculties and 128 new departments in different universities across the country, and in close coordination with private universities, the Ministry has paved the way for 13,087 students to study in private universities.

In regard to fraud committed, the Minister stated that they have arrested 542 people who were involved in fraud and cheating. The Minister also stated that he was not involved nor did he influence the exam process; the Ministry of Higher Education prepared the same questions for all 34 provinces as well. This year, the Ministry awarded 19 governmental scholarships to each province.

Mr. Obaid urged Members and Senators to contribute to this process and He said that the university entrance exam is not wholly the responsibility of the Ministry of Higher Education, but rather all Afghans, particularly the governors, provincial councils, security organs, and CSOs. The test results from this year show that 49, 338 students failed the test. The Ministry has formed a committee to hear the concerns and petitions of students. This committee will consider the test scores and point out to the students areas in which they failed and how the test scores were calculated. He invited Members of the WJ and MJ, as well as select CSOs to be part of this committee.

Both Houses concluded that something needs to be done to 'restitute the rights of the rest of the students.' The Lower House agreed that a committee should be formed with Members from the WJ, MJ, civil society and Ministry Officials. The Upper House approved a slightly different structure:

- The current University Entrance Exam Committee should be abolished
- The President should establish new independent university entrance exam committee which would not be under the framework of the Ministry of Higher Education
- Civil society and relevant Commission in both Houses of Parliament should evaluate result of the entrance exam together

As of the publication of this newsletter, a new Committee has not yet been formed.

Wolesi Jirga Looks into Recruitment Procedures at the Civil Service Administration Reform Commission

Continuing with their theme of investigating government run entrance examinations, the Lower House summoned the Head of Civil Service Administration Reform Commission, Mr. Ahmad Mushahed, to present his report on the recruitment process of this administration. Members were of the opinion that the civil service entrance examination is illegal and that the Administration as a whole was corrupt with whole departments in Ministries and government offices comprised of staff from the same tribe. At the conclusion of the session, the First Deputy Speaker, Mr. Mirwais Yasini, said that the Civil Service Commission entrance exam should be stopped immediately, and a committee should be formed to look into the administration.

Addressing the House on Monday the 18th of March, the Second Deputy Speaker, Mr. Saleh Mohammad Saljoqi, explained to Members and the Head of Civil Service that the civil service entrance exam is not included in the present law on the civil service and as such it is illegal. This was one of the reasons that the Head of Civil Service has been summoned. Before Members has a chance to question Mr. Mushahed directly, he was given the opportunity to present his brief report:

“Based on Presidential Decree 45, the Commission was directed to create the mechanism for recruitment and hiring. The mechanism for recruitment they have chosen is an entrance exam for new people/hires. The entrance exam is not against the law; it reflects a competitive merit-based approach also exhibited in the Constitution. The Civil Service Administration had serious problems previously in which its actions became linked to tribal and ethnic interests. As a result of those problems, the government decided to have a merit-based civil servant administration.”

Lawmakers were not satisfied with this report and immediately began to question the Commission Head.

Mr. Abdul Rauf responded to the statement that the exam is ‘not against the constitution’ by citing four reasons why he considers it unconstitutional:

1. Stipulating the maximum age of 30 years age for the exam candidates is against the law
2. Stipulating that a bachelor’s degree is necessary for those positions at grade 4, 5, and 6 is against the law
3. The staff members of ministries are full of people from the same province (how is this merit-based selection he argued?)
4. Salary differences are against of the law.

He suggested that a Committee comprised of Members from the WJ and the MJ and should be formed to make their final decision about this administration.

Mr. Sayed Hussain Aalami Balkhi said that baccalaureate degree holders¹ have not been given the chance to attend the entrance exam; this exclusion is against the law. Another concern that Mr. Balkhi noted was that the staff in employment grade levels 3, 4, 5, and 6 positions at the provincial level, had previously been proposed by the directors and later approved (hired) by the relevant Ministers. Now, the Commission recruits and hires staff and the selection authority has been taken away from the Ministries. As to the education level stipulation, Mr. Balkhi argued that current staff whose education level is below 12th grade should be able to apply for positions at employment grade levels 4, 5, and 6. “This right has been taken away from them,” Mr. Balkhi told his colleagues in the House.

Due to the above concerns his colleague Mr. Rauf noted as well as his own, Mr. Balkhi proposed that the Civil Service Commission should be dissolved and its functions allocated to the IDLG.

¹ “Baccalaureate” refers to those graduating from the 12th grade

The Commission Head, Mr. Mushahed, responded to Members and clarified some of their statements. The entrance exam mechanism has no limitation for students, except those new high school graduates, who have no experience. In regards to the age stipulation of no more than 30 years old, Mr. Mushahed explained that this only applies to those people who are newly graduated from universities, requiring that they should be between the ages of 18 to 30 years. Responding directly to Mr. Balkhi's statements on current civil servants being excluded from opportunities, Mr. Mushahed said that current employees (civil servants) who are above 30 yrs. can apply for *any* positions.

To those Members who claimed that the Civil Service Administration is corrupt, Mr. Mushahed urged them to bring their proof of fraud and corruption and share that information with him. He promised to take action accordingly. Mr. Mushahed said that huge developments have been made in the Afghanistan's civil service administration, and he clearly stated that the Commission will no longer accept pressure from senior government officials to hire their people.

Concluding his remarks, Mr. Mushahed said that Parliament will soon be receiving a new draft law on the civil service commission. This draft law proposes to divide the Commission into the Civil Service Commission and the Office of Recruiting Staff. He urged MPs to consider all aspects of this bill during their deliberations.

Despite these parting words, Members were not satisfied and called for a committee to be formed to continue to look into the matter of the civil service entrance examination and corruption. Due to lack of quorum the House could not take any official action, though the First Deputy Speaker said that it will appear again soon on the agenda and when the House reaches quorum it will be put to a vote.

Legislative Status Report

Week ending March 22, 2013

Lower House (WJ)

Law on Higher Education

This Law was enacted pursuant to the provisions of Article 43 and 46 of the Constitution of Afghanistan. Article 43 stated 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".

The Religious Affairs and Education Commission debated and deliberated all 71 articles. The most debated articles were: Section one of Article 41 which states "professors of higher

education institutions shall be retired after age (70)". This article was amended as follow: "Professors of the higher education institutions shall be retired after age (75)." Another debated article was paragraph two of Article 42 which states "if a member of an academic position violates the rules and discipline of the institution, he/she shall be dismissed based on approval of the Higher Council in accordance with the provision of law". This paragraph was amended as follow: "Member of academic position in case of explicit violation of the law shall be punished with following disciplinary actions: 1) advice, 2) notification, 3) decrease of salary, 4) transferring and 5) dismiss".

Status: This law has been finalized in the Religious Affairs, Education and Higher Education Commission. It will be sent to all commissions in the WJ in the coming week for their consideration and comments.

Electoral Law

This Law was enacted pursuant to the provisions of Article 61, 83, 84 & 86 of the Constitution of Afghanistan. The Electoral Law contains 13 Chapters and 70 articles. The aim of this law is to regulate general, free, fair and transparent elections across the country. Chapter 1 of the electoral law covers goals and names of the election commission. Chapter 2 of the law covers constituencies, Chapter 3 covers candidates and voters, Chapter 4 covers presidential elections, Chapter 5 covers elections of the Lower House (WJ), Chapter 6 covers elections of the upper House (MJ), Chapter 7 covers elections of provincial councils, Chapter 8 covers district council elections, Chapter 9 covers village councils elections, Chapter 10 covers elections for municipalities and its members, Chapter 11 covers the conduct of the elections, Chapter 12 covers elections violations & Chapter 13 covers miscellaneous provisions.

Status: This law has been finalized in the Legislative Affairs Commission. All the Commission's amendments have been finalized and included in the draft law. It will be sent to all commissions in the WJ in the coming week for their consideration and comments.

Law on Elimination of Violence against Women

The draft bill on Elimination of Violence against Women was prepared by the government of Afghanistan (Ministry of Women's Affairs) in accordance with article 24 and 54 of the Constitution and based on the Afghanistan obligations under CEDAW (Convention for the Elimination of Discrimination Against Women), 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. It was later signed by the President through Legislative Decree number 91 on 29/04/1388 and published in official GAZETTE number 989. Since then has been 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 the well-being of family, fighting against

customs and traditional 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, and prosecuting perpetrators of violence against women. The law identifies all types of violence and set the punishment for each types of violence. Also, this law set the preventive measures and explained and the rights of victims, as well as identifying the implementing organizations and determined their duties and responsibilities.

Status: At the close of the 4th Session of Parliament, the law was in the WJ Women's Affairs Commission.

Law on Telecommunication

This Law has been proposed pursuant to Articles 10 and 37 of the Constitution of Afghanistan in order to promote and develop telecom services, regulate and supervise the telecom market, ensure relations between the Telecommunications Regulatory Authority (ATRA), Operators or Service Providers, Users, and other relevant agencies in the country. The law includes 17 Chapters and 67 articles.

Status: The bill remains inactive in WJ commission.

Criminal Procedure Code (CPC)

This Law has been formulated pursuant to the provision of Article 134 and observance of Provision 123 and section 1 of Article 75 of the Afghanistan Constitution in order to regulate the issues related to discovery and investigation of crime, filing a criminal law suit against the accused, proceedings for criminal cases in court, and the enforcement of decisions. The CPC aims to organize and regulate the criminal trails. Thus, it specifies the organization and jurisdiction of different bodies and criminal courts, and explains those principles which should be followed and those formalities which should be observed during detection and prosecution of criminals

Status: Discussions will resume at the start of the 5th session and the law is in discussion in the WJ Justice and Judiciary Affairs Commission.

Bills referred to Joint Committee

Law of the Structure, Duties and Jurisdiction of the Attorney's Office

This law has been enacted pursuant to the provision of paragraph (3) Article 134 of the Afghanistan Constitution which says "The organization, jurisdiction as well as method of work of the Attorney's Office shall be regulated by law." The law includes eight Chapter and 40 articles. This law is drafted for the purpose of regulating the affairs relating to the structure, duty, composition, authority and course of action of the Prosecutor Office. The principle objectives of this law are as follows: to strengthen legality and order in society; to defend the spiritual and corporeal rights, interests and freedom of individual and public for the purpose of rule of law and insuring the justice; to regulate the personal affairs of

prosecutors and staff of civil service of the Attorney's Office; and to regulate the affairs relating to the prosecutors' punishment and disciplinary action responsibility.

Status: The law was introduced on 6 October 2012 to the National Assembly; the WJ approved on 13 October 2012, the MJ plenary session discussed the law and approved it on 19 January 2013 and brought some amendments. The law has been referred to a joint commission for further discussions following the start of the 5th session of Parliament.

Law on Personal Affairs of the Afghanistan National Army Officers and Lieutenants

The Law on Personal Affairs of Military Officers and Lieutenants was enacted in 9 Chapters and 70 articles pursuant to the Article 95 of the Afghanistan Constitution to regulate the personal affairs including issues related to the appointment, recruitment, transfer, promotion, vacation, reward, punishment, suspension, resignation, retirement, and other personal affairs of the officers and sergeants of the Afghan National army.

Chapter 1 covers the general provisions, Chapter 2 provides for the rights and responsibilities, Chapter 3 provides for position of Officers and Sergeants, Chapter 4 states the promotion of Officers and Sergeants, Chapter 5 provides for appointment and transfer of Officers and Sergeants, Chapter 6 discusses issues related to the leave and vacation for Officers and Sergeants, Chapter 7 provides for suspension, resignation and retirement of Officers and sergeants, Chapter 8 provides for reserve services and Chapter 9 covers the miscellaneous provisions.

Status: The law was approved by the WJ on 7 May 2011. On 5 June 2011 the MJ discussed and approved. The MJ did not accept all WJ amendment and the law referred to joint commission. The law remains under discussion.

Law on the Structure, Duties and Jurisdiction of the Election Commission

The Law has been codified pursuant to the provisions of Article 156 of the Afghanistan Constitution which says "The Independent Elections Commission shall be established to administer and supervise every kind of election as well as refer to general public opinion of the people in accordance with the provisions of the law." The law is adapted for the purpose of regulating affairs regarding the Structure, Duties and jurisdiction and regulating the function and procedure of the Independent Election Commission. The law includes 4 Chapters and 23 articles.

Status: The law was passed by the WJ on 24 September 2012. The MJ plenary session on 20 November 2012 discussed the law and approved but MJ did not accept all WJ amendments therefore the law was referred to a joint committee. The Joint Committee will meet after recess.

Social Organizations Law

This law has been drafted in consideration of Article 35, of the Constitution that says "To attain moral and material goals, the citizens of Afghanistan shall have the right to form associations in accordance with provisions of the law. The people of Afghanistan shall have

the right, in accordance with provisions of the law; to form political parties.....a party or association formed according to provisions of the law shall not be dissolved without legal causes and the order of an authoritative court. This law is drafted for the purpose of establishing the functions, rights, and obligation and dissolved of the Social Organizations. The law has 5 Chapters and 31 articles, including: general provisions, registration and establishment procedure of the organizations, financial affairs, dissolution of the social organizations, and miscellaneous provisions.

Status: It is expected that the Joint Committee will meet in the next reporting week.