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REVIEW

On 19 December 2005 the Afghan Parliament came together for the first time in three decades. The inaugural gathering began with a reading from the Koran and was followed by a brief speech by the ageing former King *Zahir Shah*, who was ousted in a coup in 1973. "I thank God that today I am participating in a ceremony that is a step towards rebuilding Afghanistan after decades of fighting. The people of Afghanistan will succeed!" the 91-year-old *Zahir Shah* told the assembly to applause. The parliamentary and

provincial council elections were held on 18 September 2005. Afterwards, the first results were declared on 9 October. Final results were delayed by accusations of fraud, and were announced on 12 November. Former warlords and their followers gained the majority of seats in both the Lower House and provincial councils. Women won around 28% of the seats in the Lower House, six seats more than the 25% guaranteed in the Afghan Constitution which was launched in 2004. Approximately twelve million voters



were eligible to vote for the 249 seats of the *Wolesi Jirga*, the Lower House of Parliament, and the 34 provincial councils.

EXECUTIVE SUMMARY OF APRIL 2007

In the month of April, MPs discussed the killing of *Ajmal Naqshbandi* by the Taliban. Also the budget for the year 1386 (2007/2008) was discussed and approved. The media law was the next item on the agenda of the Lower House in late April. The month of May 2007 will be remembered as the month that MP Malalai Joya, the most outspoken of

the 68 women currently elected in the parliament of Afghanistan, has been suspended from parliament. A relentless critic of the warlords and assorted war criminals in the Karzai government, the legislators kicked Joya out after viewing a television interview in which she likened the parliament to a "zoo." Several MPs accused Ms. Joya for



insulting them afterwards. In the interview with Tolo-TV, MP Joya compared members of the Afghan Parliament with animals by saying their colleagues were “worse than cows and donkeys.” Lower House MPs also decided that a court of law would investigate this case. Ms. Joya was standing by her comments and said that MPs did not have the right to suspend her from the Parliament because she was representing the people of Farah province.

During May 2007 also the media law was approved by the majority of members of the Wolesi Jirga (lower house). It has to be adopted by the Meshrano Jirga (upper house) now, which is said to have a heavy agenda. Some observers think the Media Law might not be scheduled within the next 2 or 3 months in the Meshrano Jirga.

MAY 2007

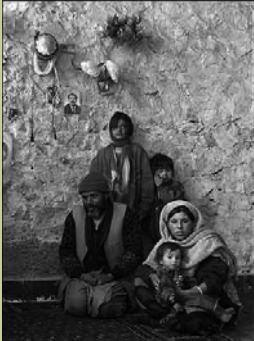
On the 2nd of May the Lower House discussed the media law and relevant articles about the ownership of media outlets. At the end of the session, majority Lower House MPs voted against foreign nationals owning and operating media outlets in Afghanistan. Media reported that the Economic Commission of the Lower House criticized the amount of foreign assistance reaching Afghanistan. This Commission says that only 20% of the assistance reaches Afghanistan, the other 80% is lost on the way. *Mustafa Kazemi*, the Head of the Lower House Economic Commission said that only 200 million of 1 billion dollars reached Afghanistan. During the Afghan Development Forum, Finance Minister *Anwarulhaq Ahadi*

expressed his concern and said that 85% of the foreign assistance returned back to foreign countries.

On the 5th of May, three commissions (Interior, Defence and Security) of the Upper House were assigned to investigate the assassination of Senator *Abdul Saboor Farid*. They will investigate the murder in coordination with government security agencies. *Abdul Saboor Farid*, was prime minister for a short time during the Mujahideen government of early 1990s, he was also a renowned jihadi leader of the *Hezb-e-Islami* in Kapisa province. He was gunned down near his residence in the northern Khairkhana suburb of Kabul on the 2nd of May. *Fareed* was given an official government funeral in the biggest mosque in Kabul. President *Karzai* and a number of high ranking government officials attended the funeral.

On the 6th of May, Upper House senators approved the amended reconciliation bill. Media reported that Upper House Senators also stressed on the need to negotiate with *Hezb-e-Islami* Leader, *Gulbudin Hekmatyar*. Upper House Speaker, *Mr. Mojaddedi* accused foreign forces for not supporting the reconciliation process. He said that several attempts were made to bring the Taliban and join the peace process but these efforts were not backed by coalition forces. *Mujaddedi* once again accused ISI for interfering in the internal affairs of Afghanistan.

On the 7th of May, Lower House MPs discussed as they said the worsening situation of Afghan refugees recently expelled from Iran. A number of MPs asked the



government to take urgent measures and contact Iranian officials to stop expelling Afghan refugees against their will. On the 8th of May, the Lower House of the Afghan Parliament decided to take the issue of Afghan refugees seriously, after a number of MPs accused Minister of Foreign Affairs, Dr. *Spanta* and Minister of Refugees, *Akbar Akbar*, for neglecting the problems faced by Afghan refugees after being driven out of Iran. MPs asked both Ministers to appear before the Lower House and answer questions on this issue. Obviously, the respected Ministers' answers were not convincing to Lower House MPs on this day and MPs decided to call both Ministers the next day for interpellation.

On the 9th of May, the Minister of Foreign Affairs tried to defend himself by saying that not much could be done by a Foreign Ministry of a war-torn country, a part from engaging Iranian officials some months ago on the issue of Afghan refugees, to ask them that they should not expel many Afghans at once, and should reduce the numbers to be expelled. He said that he was under pressure from his Iranian counterpart on the issue of the *Salma Dam* that is under construction in the western city of Herat and the Hari Rud river.

He added that he was not bowing to Iranian pressure and the expulsion of Refugees is also related to the presence of foreign forces in Afghanistan. *Akbar* also tried to defend his work and his Ministry; however, Lower House MPs decided that a voting should decide the fate of both Ministers. In the first round of counting, *Spanta* received 126 no confidence votes. In accordance with the Lower House internal rules of

procedure, 125 votes mean that he is no longer considered by the Lower House as the cabinet minister. However, these votes were counted again for the second time, it was announced that 2 votes were not properly marked, which meant that with 124 votes, *Spanta* was still the Minister of Foreign Affairs but there were a lot of shouting from MPs and accusation of interference in voter cards.

The Deputy Speaker in the absence of the Speaker announced that the decision on the plight of *Spanta* can not be decided by votes and would have to wait for the general session and MPs to make a decision in the following sessions. *Akbar* became the first Minister that the Lower House voted him out of the cabinet with 136 no confidence votes.

On the 12th of May, after a long discussion which ended at 12:30 and after a small clash of bottle throwing and other items between a former communist and a former Mujahid MP, Lower House MPs voted in another round of voting for *Spanta*. In this round, *Spanta* received 141 no confidence votes, 73 confidence votes and there were 3 blank votes. 141 votes meant that *Spanta* is no longer the Minister of Foreign Affairs because the Lower House took back its confidence vote given to *Spanta* almost a year and half ago. President *Hamid Karzai*, upon receiving this news asked the Supreme Court to look at the decision of the Lower House of the Afghan Parliament and compare it with the constitution of Afghanistan.

President *Karzai* was advised that this no confidence vote might have shortcomings for the reasons that the Lower House MPs voted twice, and in the second round the number of MPs increased and it is possible that



these extra MPs might not have heard the argument of *Spanta* and their votes might not be legal and also that there are no convincing reasons for the no confidence vote. Therefore, there might be the need to look at the decision of the Lower House to see if it had breach the constitution.



On the 13th of May, MPs meet to discuss the President's decision, Lower House MPs asked the President to respect the decision of the Lower House or they would boycott the Lower House. Lower House Speaker then decided that he would discuss this issue with the President and brief MPs after.



On the 14 and 15th of May, almost half of the MPs were absent from the house. On the 16th of May, about 50% of the MPs discussed the decision of the President and once again there were many MPs who expressed their unhappiness with the decision of the President, however, a number of MPs said that lets wait for the decision of the Supreme Court and then the Lower House should decide what to do but until then the Afghan people want MPs to continue working and there are many issues in front of the Lower House to continue working, one of them being the media law. At the end of the session MPs also decided that the Lower House should call in a press conference and explain to the media its position.



The press conference was held by the Speaker of the Lower House, *Younus Qanooni*. He said to the media that the Lower House delivered a no confidence vote and *Spanta* from the point of the Lower House is no longer the Minister of Foreign Affairs and he has no right



to represent Afghanistan in official meetings. *Qanooni* also said that the Supreme Court has no right to have a say in this issue. *Qanooni* also criticized *Spanta* for his ignorance of a trilateral agreement on the issue of refugees. Foreign Ministry Spokesman, *Baheen* said to the media that this agreement was not between the Ministry of Foreign Affairs but rather between the Ministry of Refugees of Afghanistan, UNHCR and the Iranian government.

Lower House continued to work and on the 19th of May approved more articles of the media law and approved article 42 which is about the establishment of a media commission, to monitor the work of the media in accordance with this law. It was also decided that the head of this commission would be elected and not appointed.

On the 21st of May, UNAMA (United Nations Assistance Mission) asked the government to resolve a constitutional dispute that has generated questions about the status of *Spanta* as the Minister of Foreign Affairs. UNAMA spokesman, *Adrian Edwards* said, "the UN's view is that under Afghanistan's constitution, only the President can dismiss ministers. UNAMA says that for strengthening stability in Afghanistan there is a need to clearly define the authority of the President and the Afghan Parliament concerning cabinet ministers.

Majority Lower House MPs voted and suspended the outspoken Lower House MP, *Malalay Joya's* membership in the Lower House until the end of the legislative term. MPs accused *Joya* for insulting them in an interview with

Shukria Barakzai is an independent MP and represents the province of Kabul in the Lower House. Previously, she worked as the Founder and Editor of the Women's Mirror Weekly (Ain-e-Zan) newspaper.



“The final approved draft media law has 11 chapters and 53 articles. Considering that this law decreases professional and journalistic concerns, however some concerns are still there. The media commission is a good example of participation of government, civil society and journalists to draft a strategy for the Afghan media.”

a private television channel. In that interview *Joya* called Members of the Afghan Parliament animals in the zoo and even said that they were worse than animals because some animals were useful.

Lower House also decided that this issue would also be referred to the court of law because *Joya's* remarks also have a criminal side as well. *Malalay Joya* held a press conference and said the action of the Lower House was illegal because she represented the people of Farah province and only they had the right to suspend her from the Lower House. She also said that she would be happy to go to a human rights court. On the 22nd of March, Lower House approved the draft media law after adding 16 new articles. Lower House discussed the media law for a month before approving it. MPs considered the addition of an article that would require the head of the media commission to be elected rather than appointed as a key amendment. The draft media law was presented to the Lower House with nine chapters and 42 articles, after approval it has 11 chapters and 53 articles. In addition to the elected head, the media commission will have the following members: Ministers of Information and Telecommunications, representatives of the Justice and Hajj Ministries, as well as the Supreme Court, members of the Parliament, journalists associations and civil society.

CONCLUSION

After the no confidence vote for *Spanta* and *Akbar*, there was a new atmosphere in the Afghan Lower House. Majority MPs seemed proud of their decision. However, after the President received this decision of

the Lower House, he asked the Supreme Court for help and soon after UNAMA stepped in and said that according to the Afghan constitution only the President had the right to suspend Ministers. There might be a need as UNAMA says for defining the powers of the Afghan Parliament in accordance with the constitution of Afghanistan or a lack of enthusiasm could emerge amongst the members of the Afghan Parliament. However, to the credit of some wise MPs, who asked the Lower House to continue working and let the President and the Supreme Court to do their work. Lower House MPs continued to work and approved the media law.

GUEST CONTRIBUTION

Written by *Mrs. Shukria Barakzai*,
MP of Wolesi Jirga

The fourth media law in Afghanistan was approved after long discussions and plenty of concerns. The media law that was presented to the Lower House of the Afghan Parliament almost a month ago, initially had 9 chapters and 42 articles. It was approved by the Lower House with ambiguities; dealings and opposition. The final approved draft media law has 11 chapters and 53 articles. Considering that this law decreases professional and journalistic concerns, however some concerns are still there. The media commission is a good example of participation of government, civil society and journalists to draft a strategy for the Afghan media. There are two commissions in this law, the media commission and the commission for radio and television. The referral of those cases which are considered by the media commission, violation of the media law to the courts, is a good side of this law, which means that it gives



journalists a sense of security in their work. However, disrespect, exaggeration and insult are considered to be some of the ambiguities in this law, and in each instance observing the principals of the sacred religion of Islam and other religions have no specific definitions, except that the publication will be banned.



The independent radio and television commission for the reason that it is no longer under the control of the government, would have an interesting composition: two professional journalists, a representative of civil society, one religious scholar, a professional engineer and one artist. It is indeed one of the best and an interesting composition for a media outlet that would be funded by the government.



However, this is not an indication of increased independence, equal opportunity for all and making radio and television a public institution, which is difficult to say that it would be effective in competing with other electronic media.



Despite all the ambiguities and benefits, the draft media law is better than previous media laws in Afghanistan. However, there are rooms for changes in the future.

(30/05/2007, MP S. Barakzai)



The Media Law for Afghanistan - a remarkable step forward

Written by
Mr. E. Sucker, Deutsche Welle

Despite some outstanding issues and inconsistencies in the Wolesi Jirga version of the law, this draft is a remarkable step forward and experts acknowledge the achievements of the wide debate and the active lobbying by MPs, national and international media and civil society organizations over the past months RTA, the National Radio and Television Afghanistan, has been taken out of the control of the Ministry of Culture and Information which is a real accomplishment. The law provides for free, independent and pluralistic media, which is great. It also provides for legal protection of journalists, and the right of reply.

There seem to be quite a few inconsistencies in the law. The role of the Ministry of Information and Culture is not consistent throughout the law The High Media Council (HMC) has become an interesting and complex body: On the one hand it proposes the appointment of the two commissions (and clearly RTA is a welcome addition here), on the other hand it is tasked to scrutinize the budget of RTA. There is no reference to whether the HMC will do this directly, or whether it will do so after the budget is referred to it by RTA commission.

The composition has also become complex with the addition of representatives from the Ministries of Justice, Hajj and Mosques. The mechanism for deciding the chairmanship of the Council is a step in

Eberhard Sucker,
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Akademie Deputy
Project Director
European Consor-
tium for the Re-
form of RTA
(BBC – DW – CFI)



*“The law pro-
vides for free, in-
dependent and
pluralistic media,
which is great. It
also provides for
legal protection
of journalists,
and the right of
reply.”*

the right direction particularly be-
cause the emphasis seemed to be
on its function as a policy-focused
body.

Hopefully clause 7 of this articles is
just an oversight and that the Wolesi
Jirga will notice and correct it (i.e.
prepare RTA's annual budget).



Abdul Samad Khan

Born in Kabul in 1961 Abdul Samad
Khan graduated from the Afghanistan
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Taliban regime he started to work with
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PARLIAMENTARY BULLETIN

The Bulletin covers on a monthly
base issues discussed in the Afghan
Parliament. Additionally, chosen
Members of Parliament make a con-
tribution to the bulletin on issues
discussed in the previous month.