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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 JUNE, JULY & AUGUST 2007

The Lower House of the Afghan Parliament tried to work on how best it can monitor the work of the government. As the government insists on its right on keeping the two ministers voted out of the government by the Lower House earlier, and after asking the Attorney

General to report to the general sessions of the Lower House and answer MPs questions, which the Attorney General rejected this call with a simple letter, the Lower House feels that as things stand right now, it can not monitor the work of the government properly, and

in accordance with its internal rules of procedures decided to form a Commission for Monitoring the Work of the Government. This commission has 25 members and to-date the Lower House has managed to vote for 2 members of this com-



mission, they are Mirwais Yasseni from Nangarhar and Haji Zarif from Kabul. It took a long time for the Lower House to come to consensus and vote for the remaining 23 members, as early this year after of a number of attempts, MPs could not agree on electing the second Deputy Speaker, that seat is still vacant.

SEPTEMBER 2007

While discussion continued on the composition of the government in the Lower House, on the 1st of September the composition of the Afghan Independent Human Rights Commission (AIHRC) was the subject of hot discussions and exchanges. A number of MPs said that there was no need for the AIHRC, because it was working for foreigners and reporting on Afghans to foreigners. One MP said that the same people have been working in the AIHRC for the past five years. Another MP said the creation of the AIHRC was a conspiracy by the foreigners against the Muslim people of Afghanistan. Lower House MPs want the AIHRC and other independent commissions to get the approval of the Lower House and the heads of these commissions to come in to the Lower House and get the final approval of the MPs as for example ministers have to do.

A Lower House MP said that in accordance with the constitution of Afghanistan, the formation of independent commissions was the responsibility of the President and not of the Lower House. Majority Lower House MPs contradicted this and said that all independent commissions should be responsible before the President and the Parliament. On this day discussions on the composition of the AIHRC ended without result and it was decided that the next general session would be exclusively dedicated to the AIHRC.

As MPs in the Lower House continued to discuss the composition of the

Independent Commissions and in particular that of the AIHRC, on the 3rd of September discussions almost got out of hand. MPs accused one another of acting selectively on issues. One MP said that while the Lower House wanting to bring the AIHRC and other independent commissions under the scrutiny of the Parliament; it means that MPs don't understand the constitution of Afghanistan. Another MP contradicted this and said to the respected MP that majority MPs understood the constitution. Once again majority MPs were asking for all the independent commissions to get the approval of the Afghan Parliament but only a small number of Lower House MPs opposed this and said that this was against the constitution of Afghanistan. At the end of the discussion, majority MPs voted for the independent commissions to get the approval of the Afghan Parliament in future!

The media law which was approved by the Lower House earlier was also approved with some changes by the Upper House on the 5th of September. The Upper House made changes to the text approved by the Lower House and in accordance with the constitution of Afghanistan, both houses will now form a joint commission to work together and reach a consensus on the articles that they disagree on.

The Head of the Kabul Police Criminal Investigation appeared before the Internal Affairs Commission of the Lower House. He was asked about the factors behind the latest insecurities in the city of Kabul. The Head of the Criminal Investigation said Private security companies created since the end of the Taliban government were behind some of the insecurity in Kabul city. Private security companies have weapons and vehicles and their personal wear military uniforms. The police official said that some of these security companies were behind armed robberies and kidnappings. Members of the Central Monitoring Commission of the Lower House reported on their recent visit to the province of Bamyan



and reported that the people of Bamyan complained about the lack of proper roads and local administrations.

On the 8th of September, the Lower House issued a statement in relation to the football gifts dropped from the air to the children of Khost province by the coalition forces. The flag of Saudi Arabia was on the cover of the footballs and the Kalema (Word), the first pillar of Islam was written on the cover. In the statement, MPs strongly condemned this act of the coalition forces and asked the government to prosecute those behind this act.

The Upper House called in the Minister of Commerce to explain the sudden increase in prices of basic commodities and fuel. The Minister said that a number of factors were behind the sudden increase of fuel and the main reasons were decrease in oil production by the OPEC countries, the increase of fuel tax by Russia and Kazakhstan and the purchase of large quantities of fuel by Iran as never seen before. And inside Afghanistan, a number of companies' store the fuel until the prices go up and a private company's 90 wagon of low quality fuel imported from abroad, were stopped at Hairatan port. The Minister also indicated that the government has taken some measures to help the people by opening its own fuel stations and LPG stores. A number of Senators were not happy with the explanations of the Minister and asked him to do more because the people do face serious problems in acquiring basic food commodities and fuel.

After many weeks of discussions and some MPs threatening to decrease the number of ministries of the government and merge others, on the 15th of September, the Lower House approved the composition or rather the number of ministries and general directorates of the government almost as they were. The office of the Deputy Director of Youth in the frame of the Ministry of Culture that was voted on and removed from the mentioned ministry was once again voted on, and it will now be

recreated as an independent Directorate of Youth Affairs. Media reported that MPs did not want to decrease the number of ministries for fear of making a large number of Afghans unemployed. On this day the Upper House discussed the prisoner exchange agreement between Afghanistan and Russia as well. This agreement was approved by the Lower House earlier.

On the 18th of September, media reported that Professor Abdul Aziz, current Dean of the Sharia Faculty of Kabul University was nominated for the vacant post of the Supreme Court Judge. Shir Mohammad Etebari was nominated for the post of the Refugees Minister and Abdul Qadir Fetrat for the post of the Head of the Afghanistan Bank. These gentlemen were introduced to the Lower House of the Afghan Parliament for approval. **The Lower House announced that it will not vote for new candidates until the government nominates someone for the post of the Minister of Foreign Affairs in place of Dr. Spanta, who is no longer considered by the Lower House as the Minister of Foreign Affairs.** Media also reported that the Lower House removed the Deputy Minister's office for Military Affairs from the Ministry of Communication.

The Lower House discussed the collection of toll on the highways of the country on the 19th of September. According to media reports, a number of MPs considered the collection of toll on the highways to be against the Sharia. It was decided that this issue should be discussed by religious scholars and the finding presented to the Lower House.

According to the media, Dr. Anwarulhaq Ahadi, Minister of Finance attended the hearing of the Upper House Commission for Financial and Budget Affairs, to brief Senators about the revenues of the year 1385 (2006/7). Dr. Ahadi said the revenues for 1385 were 50 billion and 349 million Afghanis. From the total, 49 billion were spent and the rest were transferred to the budget of the year 1386 (2007/8). He added that the expected revenue for the year 1386 might be about 35 billion Afghanis and in the first six months more





than 15 billion has been collected. The Lower House approved the toll collection law on the 22nd of September. And it also approved the passport law, according to this law; children under 15 years of age will be able to acquire a passport with the consent of parents. Forensic law was approved by the Lower House on the 24th of September. This law has four chapters and 35 articles. On this day, the Upper House approved the bill for formation of a commission to reform the police force.

Lower House also discussed the possibility of holding both Presidential and Parliamentary election at the same time.

On the 26th of September, Lower House approved the passport law. The Lower House also discussed the agreement between the Ministry of Hajj Pilgrimage and Religious Trusts and a transportation company based in the United Arab Emirate to fly Afghan pilgrims to Saudi Arabia for Hajj. According to a report presented by Religious Affairs Commission of the Lower House, the mentioned ministry has no right to sign such an agreement.

The complaints hearing commission of the Upper House once again criticized the Minister of Hajj Pilgrimage and Religious Trusts for not attending to the meetings of the mentioned commissions to answer questions on the recent agreement he has signed, the slow construction of mosques and unjust allocation of Hajj visits to the provinces and for not paying the money owed to the national carrier ARIANA by the mentioned ministry.

After this criticism of the mentioned commission in which the head of the commission referred to the respected Minister of Hajj as an outlaw (baghee), the minister held a press conference and said that he knows that in accordance with the constitution he is required to attend the hearings of the Parliament but he could not attend

because he was busy. He said that he is not happy with the description of an outlaw and he will be asking the judicial authority to investigate this comment by the head of the Complaints Hearing Commission of Upper House. The minister also said that he was the head of the commission which drafted the current constitution of Afghanistan.

Earlier that week Lower House MPs tried to vote for the remaining 19 members of the commission for monitoring the work of the government. More than 150 MPs nominated themselves but none managed to get the needed votes.

The Lower House also discussed the law for the children's rights and the law of monitoring the implementation of the constitution. The International Affairs Commission of the Lower House after discussing the work of the Ministry of Foreign Affairs requested that the Minister pay attention to administrative, cadres and financial transparency, as well as ensuring national participation in the composition of the Ministry of Foreign Affairs.

The mentioned commission also requested the list of all those Ambassadors with dual citizenship. It was said that 27 Ambassadors have dual citizenship and more than 10 are without high education.

The Upper House discussed the need to raise the capacity of the Afghan National Army by providing it with air force and heavy weapons and Senators asked the Ministry of Defense to do their utmost in this regard.

The delegation of the Upper House Environment Commission sent to the north-eastern province of Badakhshan reported that they were not assisted by provincial authorities during their visits there and also criticized the work of provincial authorities in the areas of education, public health and assistance to the victims of floods in this province.



Political parties' law was approved by the Lower House on the 29th of September. According to this law anyone over 18 years of age with 5,000 members can form a political party in Afghanistan, the party can be active at local or national level.

CONCLUSION

Members of both houses are trying to approve the laws of the nation and monitor the work of the government departments. Since the Lower House delivered the no confidence vote in the Minister of Foreign Affairs a few months ago, for the time being other members of the cabinet and government are heeding the calls of both houses of the Parliament with caution, as witnessed this month when the Minister of Hajj Pilgrimage and Religious Trusts was asked to appear before the Complaints Hearing Commissions of the Upper House. The Minister did not appear, citing work commitments. The Head of the Commission called him an outlaw and the minister called in the media to say that the Head of the Commission didn't have the right to call him and outlaw. The laws of the nation are presented by the government to the Parliament, the relevant commissions with the consultations of other commissions amend the laws and present them to the general session of the Upper or Lower House, after which the Senators and MPs discuss the changes and most of the time approve the laws.



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Abdul Samad Khan

Born in Kabul in 1961 Abdul Samad Khan graduated from the Afghanistan Military Academy. After the end of the Taliban regime he started to work with foreign media organizations like BBC, Süddeutsche Zeitung and Neue Zürcher Zeitung. In 2003 he worked with the EU Commission as a media analyst then he served as a political officer at the Canadian Embassy for three years. Since 2006 he is in charge of the Konrad-Adenauer-Foundation's Parliamentary Program. He is fluent in English, Pashto and Dari.

Dr. Babak Khalatbari

Born in 1975 in Germany, he started his studies on the Middle East after his military service. He was a scholar of the Konrad-Adenauer-Foundation and studied at the University of Muenster, University of Cologne and Kuwait University. Since 2005 he heads the Kabul Office of the Konrad-Adenauer-Foundation. He speaks German, English, Arabic and some Dari.

Mrs. Malalai Joya (born April 25, 1979) was elected to the 249-seat National Assembly or Wolesi Jirga in September 2005, as a representative of Farah Province. She gained international attention in December 2003 when, as an elected delegate to the Loya Jirga convened to ratify the Afghan Constitution, she spoke out publicly against what she termed the domination of warlords. On May 21, 2007, fellow members of the Wolesi Jirga voted to suspend her, citing that she had broken Article 70 of the Parliament, which had banned Wolesi Jirga members from openly



criticizing each other. Joya had compared the Wolesi Jirga to a "stable or zoo" on a recent TV interview, and later called other members of parliament "criminals" and "drug smugglers."

the Attorney General rejected this call with a simple letter, the Lower House feels that as things stand right now, it can not monitor the work of the government properly, and in accordance with its internal rules of procedures decided to form a Commission for Monitoring the Work of the Government. This commission will have 25 members and to-date the Lower House has managed to vote for 2 members of this commission, they are Mirwais Yasseni from Nangarhar and Haji Zarif from Kabul. It might take a long time for the Lower House to come to consensus and vote for the remaining 23 members, as early this year after of a number of attempts, MPs could not agree on electing the second Deputy Speaker, that seat is still vacant.

GUEST CONTRIBUTION

*Written by Mrs. Malalai Joya,
Former MP of Wolesi Jirga*

Since my speech in the Loya Jirga in December 2003, the fundamentalist warlords have regarded me as their target and a number of times tried to eliminate me physically and threatened me to be silent.

But from the first day I announced that I will be ready to give any sacrifices for my people and will not stop to voice their miseries and cry for peace, freedom and democracy. They organized a number of assassination attempts to kill me but fortunately I survived. Although I hate guns, in the past few years I have been forced to live under gun protection and I am always being guarded by armed men.

Before the parliamentary elections in Afghanistan I knew very well that the parliament will be only a showpiece for the West to say that there is democracy in Afghanistan and majority of the members will be from the criminal bands and the warlords. It was crystal clear that when warlords are armed across Afghanistan and hold key

positions in the government, how the election can be democratic and fair.

It was due to pressure from people of Farah on me to stand for the election, so to respect their support and campaign, I entered the election. After I won the seat, I knew that tough time is ahead of me to challenge the enemies of human rights and democracy inside the parliament.

From the first day of the parliament human rights groups announced that up to 70% of the members belong to warlords and human rights violators. Only the Hezb-e-Islami, the group termed as terrorist by the US government, has 34 members in the parliament. And only few days ago Qanuni announced that the parliament is home of Khalqi, Parchami, Taliban, Jehadi, Wahdati etc. Even the majority of the women in the parliament are pro-warlords and their showpieces.

I have always criticized the parliament and its composition and have called it a mockery of democracy. I never expect from it to do anything for Afghan people, most of the time the warlords present are arguing to increase the benefits given to MPs. They are bargaining for their salaries to be increased, but they have no intention or willingness to work on laws for the betterment of Afghan people.

The only reason I am there is to have the opportunity to expose the nature of the parliament and the policy makers and become the voice of my people in it. Being an MP gives me the opportunities to raise my opposition, and my voice is heard by others in Afghanistan and outside. I want to challenge them in their own home.

But of course I know there are a number of democratic-minded and real representatives of people in it, although a small minority, but I have respect to them and my comments are not directed to them. I had stated this point in that interview with Tolo TV but it was unfortunately censored. The



„I received many emails, phone calls and letters from my people who told me I should better have called the parliament a zoo instead of stable.“



voice of a number of other democratic-minded MPs and me is not heard and we are not given time to speak. My microphone has been cut off a number of times when I criticize this situation and want to express my point of view. Once they even physically attacked me inside the parliament and one of them said "take and rape this prostitute."

I think to call such a parliament a stable is simply not enough, I have enough reasons to present before a legitimate and neutral court if I am to be prosecuted for these comments. I received many emails, phone calls and letters from my people who told me I should better have called the parliament a zoo instead of stable.

I stress on my point that the parliament where world-known killers and human rights violators like Rasol Sayyaf, Burhanuddin Rabbani, Younus Qanoni, Mohaqiq, Noor-ul-haq Olumi, Mullah Salam Rocketi, Mustafa Kazimi, Haji Almas, Haji Farid, Sayed Mohammad Gulabzoy, Piram Qol, Hazrat Ali and others are members, it will be an insult to Afghan people to call it "national home". Can we bring democracy and positive change in Afghanistan when such dirty elements are real power holders and policy makers?

The warlord MPs hate me very much, they were looking for ways to kick me out of the parliament to silence the voice of people in it. But my recent comments were only used as a justification for them to realize their plot against me. And they so swiftly acted and illegally voted for my suspension while the parliament does not have the right to suspend a member for more than 2 days; they in fact removed me completely from this term.

I have no respect to this illegal act of parliament and will soon complain to the Supreme Court. I have a strong support not only among people of Farah but all over Afghanistan, the warlords who have come to the parliament with the power of gun, money and threats can't oust a representative of people. I am honored

to see people in different parts of Afghanistan stage protests in support of me; it gives me more courage and determination to continue to be their voice and defend their rights in any expanse. Also I am happy to see hundreds of freedom-loving people around the world send protest letters to Afghan officials and stand by me.

They even threatened me to refer my case to the court and prosecute me, this happens in the time while the warlords and criminals through "national reconciliation" bill enjoy full immunity for their brutalities and wrong-doings. They are the war-criminals setting in the parliament to appear in the courts fist of all, not me.

I have no fear to appear before a just court with the presence of international observers, because I have no trust to Afghan justice system which is also infected with the virus of warlordism, as the fundamentalist have upper hand in the judicial system too. I want to change the courts proceedings to a battle field and expose the war-criminals and corrupt officials and members of parliament through it.

If I am inside the parliament or outside, they can't stop me, for a minute I will not rest assured until the sworn enemies of Afghan people are brought to justice. I will continue to say the truth till my last breath.



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