Afghan Parliament Raises Hopes of a Functioning Democracy

As Afghanistan’s National Assembly convened on December 19, 2005 for the first time in more than 30 years, many concerns were raised in the international media with regard to its composition and to the possibility of the institution functioning as a proper legislature.

But all the fears were to be allayed within days, when the National Assembly, despite the very long break to the already short tradition of parliamentary rule, quickly sat down to business and began to tackle its tasks in earnest.

As with many other parliaments in the world, there were many factional alignments and realignments, but it did not take even a week for the new legislature to elect the Speaker of the Wolesi Jirga, the powerful lower house of the bicameral parliament. Yunus Qanuni, the strongest challenger to President Hamid Karzai in the 2004 presidential elections, won the backing of the necessary majority of the new Assembly members to climb to the seat of the Speaker.

And in a very meaningful gesture of democratic maturity, Mr. Qanuni quickly resigned as the head of the main opposition to underline his commitment to perform his functions as the Speaker in complete impartiality.

This sequence of events followed the inaugural session of the parliament on December 19, which was full of symbolism: Three-piece suits and ties as well as traditional turbans and hats of various colours, shades and shapes, representing the broad ethnic diversity of the membership of the new legislature, created a very colourful scene as the former King Zahir Shah, now the “Father of the Nation”, sat next to the seat of the temporary speaker of the Wolesi Jirga.

It was as if all the difference in the way the members of the new Assembly dressed was meant to underline a fundamental point, that Afghan people had resolved to live in unity despite all the ethnic and other differences and that the new Assembly building would represent the embodiment of that determination of unity.

The 91-year-old King Zahir Shah addressed the members of the new parliament and said “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!”

President Hamid Karzai gave an hour-long speech touching upon all the challenges facing Afghanistan, but said “Let me tell the world that Afghanistan is rising from the ashes of invasion and will live forever.”

When he finished his speech, many among the MPs, as well as the President, himself, were in tears.

The event was also symbolic in terms of the attendance of high level dignitaries: In a powerful gesture of support, US Vice-President Dick Cheney flew in to be present at...
The SEAL project accomplished a gigantic task of creating the framework and the infrastructure for Afghanistan’s new legislature to start functioning. This process, which took only nine months, started at the “ground zero” level and delivered a result that many thought impossible even only a few weeks before the inaugural session. This story must be told best by those who lived through it. Hence the following article:

A wish list?

It was, indeed, a mission impossible. No, not because the Project Manager Thusitha uses mission impossible ring tone in her cell phone. But because the long wish list the Project document contains:

The objective of SEAL is to ensure the timely establishment of the Afghan Parliament and support to its functioning. SEAL, a two year project starting in February 2005 (actually from March onward), will contribute to finally putting the Afghan Parliament on a broad endeavour to build trust, confidence and tolerance not only among the public but also within itself to enable the work the welfare of the nation to go ahead.

The SEAL project and its predecessor UNDP Afghanistan CO initiative in close collaboration with the lead nation for the parliamentary assistance in Afghanistan, the Government of France, had to build the National Assembly Secretariat from the ashes. In fact, in February 2005, when the SEAL Project Document was signed, the government counterpart was the Civil Service Commission of Afghanistan. Until then, the existence of the National Assembly Secretariat was very much in the expected output of the project document! Our UNDP CO colleague Hiroko was then the custodian of the initiative that was about to unfold.

The Afghan National Assembly: from Mission Impossible to Reality

By A.H. Monjurul Kabir

The Afghan Parliament Raises Hopes …
The Afghan National Assembly …

To share the lessons learnt in the various parliaments, and to determine what is most suitable for Afghanistan, the National Assembly Secretariat in close cooperation with the SEAL project and the Inter Parliamentary Union (IPU) organized a national seminar for all 250 staff. The seminar was the first of its kind in Afghanistan. In effect, it was an excellent way of allowing staff who had not attended the study tours to learn from their colleagues. This approach should be emulated as one can not always rely on the study tour participants to provide written reports. This is especially important in a society where tradition is essentially oral and not necessarily written. The seminar was a major step towards organizational development of the Secretariat with an aim to build the capacity of the staffers to support the elected Members of the National Assembly better. It also initiated the process of drafting a Code of Conduct for the Parliamentary staffers.

Creating a legislative framework

I arrived in Afghanistan in June 2005 as the first Technical Adviser for the SEAL Project. My primary responsibility as Legislative Affairs Adviser was to set-up the legislative environment for the Afghan National Assembly. Using the Rules of Procedure of previous parliaments of Afghanistan as a guideline, SEAL has provided advisory services by international experts to draft Rules of Procedure to assist the Members of Parliament to develop Rules to suit the Afghan parliament. Staff Regulations and Security Regulations for the National Assembly Secretariat have been drafted with SEAL assistance. SEAL also advocated for a Code of Conduct for both the MPs and the Parliamentary staffers. SEAL is facilitating the establishment of an interface between the Ministry of Justice and the Parliamentary Affairs Department on drafting of legislation. In the coming months SEAL will undertake a specialized programme to strengthen the executive-legislature relationship. SEAL will also provide technical assistance to MPs on drafting legislation.

Most modern parliamentary audio-visual system!

SEAL has created a modern ICT environment at the Parliament through installation of a state of the art audio-visual system throughout the complex. A Local Area Network (LAN) has been laid out through the Assembly compound. A satellite link provides instant communication facilities supported by a modern telephone system. Computers and other modern office equipment and furniture have been provided for efficient operations. Arguably, Afghan Parliament has one of the most modern set of facilities in the world. In 2006, SEAL should commence its work towards implementing some of the key aspects of e-parliament.

Collaboration with IPU and different parliaments

A Memorandum of Understanding (MoU) was signed between the UNDP Afghanistan and the Inter-Parliamentary Union (IPU) on 19 July 2005. The IPU is the international organization of Parliaments of sovereign States. The Union is the focal point for world-wide parliamentary dialogue and works for peace and co-operation among peoples and for the firm establishment of representative democracy. IPU is helping the SEAL Project in gaining access to parliamentary expertise and useful tools. The SEAL will continue to foster similar relationship with regional and international parliamentary institutions.

Partnership! Partnership!!

For Afghanistan to sustain its institutional development, effective partnership with all stakeholders, including the three branches of the Government and civil society, needs to be established and strengthened. The SEAL project promoted the spirit of partnership with the Secretariat. It also forged a partnership with donors interested in parliamentary assistance. The SEAL project has received funding to the tune of $ 14 million, leaving a balance of $ 1.5 million still to be raised. The initial funding came from UNDP and the lead partner on parliamentary development, France. The largest contribution is from European Commission, while funding has also been received from Germany, Italy, Denmark and Sweden.

Orientation Programme for MPs

The first ever orientation programme organized from Dec 10 to Dec 17, 2005 together with USAID provided basic parliamentary education, practical guidance, advice and background materials to the elected members to enable them to become more informed and effective legislators as they begin their first term. The members showed a high level of interest and enthusiasm. UNDP/SEAL supported the participation of 5 experienced Members of Parliament from South Africa, India and Bangladesh. SEAL also arranged roundtable discussions for Afghan MPs with visiting MPs from the three countries. Relevant technical advisers of the SEAL Project joined the programme as resource persons. The Orientation Seminar covered
The Afghan National Assembly ...

wide range of subjects such as Rules of Procedures, lawmaking, representation and public outreach, Code of Conduct; Committee System; Oversight, and fiscal process (budget). The capacity building of the members will be continued and strengthened in the form of targeted training, attachment, thematic workshop and focused discussion/interactions in future.

The road to inauguration

The SEAL Project worked shoulder to shoulder with the Secretariat to plan and rehearse the inauguration programme. What happened on 19 December 2005 is now part of history. The inauguration was, indeed, a wonderful demonstration of the greatest exercise of democracy in Afghanistan.

The challenge ahead

In post-conflict environments, parliamentary institutions suffer from an asymmetry of power in relation to the executive, the army and many other non-state actors. Despite the need for strong legislatures, many legislatures across the world are overwhelmingly dominated by the executive branch. This problem is especially prevalent in emerging democracies like Afghanistan. While democratic elections in these countries may result in multiparty legislatures, they rarely yield strong democratic institutions. Typically, new multiparty legislatures “lack the organization, financial resources, equipment, experienced members and staff to serve as a mature and autonomous point of deliberation in the policy process.” Amid a legacy of executive branch dominance, legislators in these countries are frequently unable to envision, let alone create, a “level playing field” in which the legislature fully participates in lawmaking and scrutinizing executive power.

Building effective democratic governance requires rapid correction of this imbalance. External actors like UNDP, IPU, and other technical agencies have a critical role to play in assisting in the timely strengthening of parliamentary bodies. The SEAL Project strived to attain this objective, and will continue to do so in the new year 2006, and beyond.

Fact Sheet on Afghanistan’s New Parliament

The Structure:
The new Afghan parliament (Loya Jirga) is a bi-cameral legislature with Lower House (Wolesi Jirga-House of the People) comprising 249 members, all elected by direct suffrage, and the Upper House (Meshrano Jirga – House of the Elders) 102 members. According to the Constitution, one-third (32 members) of the membership of the Upper House are elected by Provincial Councils, another one third by the District Councils and the last third appointed by the President. A person can not be members of the both houses of parliament. Also, if any member of the either house of the parliament becomes a government minister, s/he will have to resign as member of the Afghan Assembly. The tenure of the parliament is five years and it ends on the 1st day of the month of Saratan of the fifth lunar calendar year after the election.

The Role of the Parliament

As the law-making body of the State, the parliament is responsible for producing legislation aimed at improving the governance and augmenting the living standards in the country. The parliament also has the responsibility for supervising and overseeing the functioning of the executive arm of the State, that is, the Presidency and the government. Other functions of the parliament include approval of State Budget, creation of administrative units as and when necessary and ratification/abrogation of international agreements/treaties.

Powers of the Parliament

The parliament has the power to take decisions on issues of national importance such as sovereignty and territorial integrity of the country; amendment of the Constitution (except in times of emergency situation), to decide on the period of emergency situation, and if and when necessary impeach the President.

The Lower House of the Parliament has the final say in the appointment of

• Government Ministers;
• Attorney General;
• Head of Central Bank;
• National Security Director;
• Head of Red Crescent

The President has to nominate new candidates for any one of these posts if his initial candidate is rejected by the Lower House.

Parliament also has the power of dispassionating and voting on no-confidence motions against government ministers.

Legislative Process

The authority to initiate legislation rests with the government and members of the parliament. Supreme Court can also propose legislation, but these proposals have to be submitted to the parliament by the government.

Draft laws on treaties and development programmes submitted by the government take precedence over other laws in terms of being placed on the parliamentary agenda.

Parliament members can not propose legislation as individuals, they have to form a group of at least 10 MPs to propose legislation. For a legislative proposal to be backed by the Lower House, at least 50 members must support it. The Lower House has one month to consider a legislative proposal and deliberations on any given legislative draft should not be longer. After the Lower House approves draft legislation, the approved version is sent to the Upper House. The period for the Upper House to complete its deliberations on that draft legislation is only 15 days. If there is disagreement between the two Houses of the Parliament on a draft law, a reconciliation commission is to be formed with the participation of the members from both Houses. If the Commission resolves the disagreement, the
agreed text goes to the President to be signed into Law. If the Commission can not reach agreement, then the draft can be resubmitted to the Lower House. If the Lower House approves the draft by a two thirds majority, then the bill goes to the President to be signed into Law without being sent to the Upper House once again.

On budgetary and financial draft laws, the Upper House has only a consultative role and the primary responsibility for considering and adopting the Budget and financial laws rests with the Lower House. Any legislation passed by the Lower House on financial matters or on the Budget must be endorsed by the President.

President has the power to veto legislation passed by the Parliament. In this case the rejected legislative must be returned to the Lower House with the justification for the veto. If the Lower House passes the same legislation with two thirds majority, the legislation is considered as having taken effect. If the President takes no action on the legislation in 15 days after the adoption by the parliament, this legislation is also considered to have been enacted.

**Office of the Speaker**

Both houses of the parliament will elect a Speaker (chairman) for themselves from among their members and the two Speakers will be primarily responsible for the order and the functioning of their respective assemblies. Their functions will include

- Calling to order and presiding over the plenary sessions of the House.
- Maintaining order and decorum of the sessions and the dignity of the House.
- Deciding all points of order.
- Putting to vote all questions or issues that need to be voted upon and announcing the results thereof.
- Authenticating all Acts and important documents on behalf of the House.
- Overseeing the preparation of records of the debates in the plenary sittings and their publication in the Official Journal of the National Assembly.
- Overall supervision of the security of the House.

The tenure of the Speakers of each of the houses will be five years. However, each Speaker will have two deputies each, who will serve for only one year. Separate from the General Secretariat of the Parliament, each house will also elect a Secretary and Assistant Secretary. The Speaker, two deputy speakers, secretary and the assistant secretary will make up the Board of Administration of each of the houses.

**General secretariat of the Parliament**

The Secretariat has a total strength of 513 staff including hired workers. The Chief Executive Officer of the Secretariat is the Secretary General. There will be a Secretary General for each of the Houses. At present only one incumbent is in position. There is provision for two exclusive Deputy Secretaries General, one each for each House. A third Deputy Secretary General will serve both the Houses. A General from the Afghan Police is in charge of the security of the National Assembly.

There are altogether 11 departments. These departments are to be headed by a General Director each.

**Departments Common to Wolesi Jirga and Meshrano Jirga**

1. Administration
2. Human Resource
3. Finance
4. Information Technology
5. Security
6. Parliamentary Affairs
7. International Relations
8. Information and Public Relations
9. Parliamentary Affairs
10. International Relations
11. Information and Public Relations

**Source:** *Provisional Secretariat of the National Assembly*

In order that the Secretariat staff are exposed to the systems of modern Parliaments and their Secretariats, the staff (152 of them) have undergone attachments with ten other National Parliaments.

**Functions of the Secretariat**

- The Secretariat is designed and meant to give support to the members of the National Assembly in the discharge of their functions and duties. The specific support functions are:
  1. Analysis of Bills, Budget and Development Programmes;
  2. Giving Secretarial support to the Parliamentary Committees.
  3. Provision of write-ups on general subjects of Parliamentary and constitutional importance for the members to knowledgeably participate in the debates of the Houses;
  4. Customized supply of reference materials to individual members according to their requirements;
  5. Provision of library service;
  6. Facilitation of Parliamentary exchanges and participation in international conferences of Parliamentarians.

**Parliament Committees**

All legislative organs in the world work both in plenary sessions and in committees. Committees are aimed at more focused discussion of issues and legislative proposals with specialization and expertise being brought to the process of deliberations. The number and mandate of such committees are decided by the plenary sessions. Committees are formed to discuss such issues as foreign affairs, budgetary and fiscal matters, national security and defense, judicial and Constitutional matters.

In the case of the new Afghan parliament, once both Houses meet, they will decide on the number and formation of their specialized committees.
UNDP is the UN's global development network, advocating for change and connecting countries to knowledge, experience and resources to help people build a better life.

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Calendar of Events:

⇒ January 3 – Two-day workshop at the MoWA with heads of departments aimed at initiating the expansion of the capacity development programme at the Ministry to 10 more provinces

⇒ January 8 – ANBP Coordination meeting, amendments and resizing of project components to be discussed (at the UNDP compound)

⇒ January 10-25: Visit of programming mission on Governance

⇒ January 16 – ANBP meeting with implementing partners (GTZ, BEST, VARA and AGEF) on the revised budgets and downsizing of contracts (at the ANBP project)

⇒ DIAG Capacity Building Seminar in Kapisa (exact date to be confirmed)

⇒ 26 January NABDP - LPAC (Local Programme Advisory Committee) meeting for the Phase II Programme,

⇒ ICT: Start of online registration of Afghan Internet Domain names with .af extension for businesses and institutions (exact date to be confirmed)

An image of Afghanistan

Photo by Mohammad Nasser