

Subject: Conflict of powers

MPs: Ghulam Hussain Naseri, Abdul Qaddir Zazai, Qudratullah Sahak, Shekiba Hashemi, Farida Hameed, Rahima Jami and Farooq Nazari

Held by: Free & Fair Election Forum of Afghanistan (FEFA)

Participants: Political parties, civil society organizations, university lecturers and representatives of government

Date: December 27, 2016

Roundtable: MPs accountability to people

Free & Fair Election Forum of Afghanistan (FEFA) monitors the plenary and committee sessions of National Assembly of Afghanistan to inform citizens from progresses made in parliament. Therefore, FEFA held a roundtable in Kabul on December 26, 2016 where members of parliament, representatives of political parties, civil society organizations, university lecturers, lawyers and government representatives attended to discuss conflict of three branches of power which led to disqualification of 7 ministers of cabinet due to expenditure of less than 50% of their ministerial development budget. Ministers' interpellation and disqualification by Wolesi Jirga faced criticisms of cabinet and the president. The presidency requested the Supreme Court to interpret the provisions of Constitution and find out whether the disqualification of these 7 ministers was justifiable or not. At the same time, the disqualified ministers were ordered to continue their work until the Supreme Court make decision.

At the beginning of the program, Mr. Haseeb Motaref, coordinator of parliamentary monitoring program of FEFA the objective of parliamentary monitoring program is to increase transparency, reporting citizens from activities of parliament and building relation between constituents and their representatives in parliament.

Then, Mr. Ghulam Hussain Naseri, member of Wolesi Jirga said, "Based on article 60 of the Constitution, the president is head of all three branches of power and political system of Afghanistan is presidential. We don't have problem in political structure of Afghanistan but there is problem in misuse of authorities which is against the law. The powers are separated properly in Afghanistan." Then, Mr. Manaqi, lecturer at Kateb University, said, "There is conflict of power in political system of Afghanistan. The reason behind this conflict is lack of awareness from legislative documents."

Mr. Riazat, representative of Ministry of Justice, said, "The sources of this problem is lack of awareness from legislative documents and laws. Due to lack of system the ministries haven't been able to spend their ministerial development budget. When the ministers haven't appeared in Wolesi Jirga, how the house gave vote of lack of confidence to them and disqualified them." He added that parliamentary groups pave the ground for corruption.

Hashmat Radfar, media advisor of chief executive office, said, “The constitution of Afghanistan was not responsive to 2014 electoral challenges and directed Afghanistan to crisis. The Constitution must be amended to pave the ground for establishment of an inclusive government. We can’t solve the current challenges until the constitution is not amended.”

A participant, “It is difficult to reach to a united view in a political system. There is no problem in the law but there is problem in implementation of law which created conflict between parliament and presidency.”

Mr. Salehi, “The Afghan Constitution is built based on political expediencies to be accepted by America and west. Parliament haven’t been able to play active role. The parliaments direct the political systems to legalism but some people create barriers before implementation of law in Afghanistan.”

A participant, “The National Unity Government was established 2 year ago but hasn’t been able to amend the Constitution based on the agreement on structure of the National Unity Government.”

Abdul Misbah, academic deputy of Academy of Sciences, said, “The principle of conflict of powers began after disqualification of 7 ministers of cabinet.”

Mr. Asif Ashna said, “Afghanistan is one the countries which hasn’t been able to build political stability. The thing which can help Afghanistan in building political stability is Constitution. The Constitution must be built based on public demand.”

Shekiba Hashemi, Representative of Kandahar in Wolesi Jirga, said, “Lack of MPs awareness from laws has created problems. Parliament sessions are symbolic and laws are not studied properly in parliament. We haven’t been able to exercise our jurisdictions. There are parallel governments in several provinces of Afghanistan which indicate there is no problem in law but there is problem in figures who create barriers before implementation of law.”

Mr. Waqif Hakimi, legal advisor of chief executive office, said, “The problems began from 2014 election. There is no democracy without election. There is urgent need for convening of Loy Jirga to amend the Constitution.”

Mr. Farzayee, “If the current constitution is implemented properly, it can solve a series of problems but the constitution is not implemented properly.”

Shekiba Hashimi, “There are two reasons behind conflict of power, political and legal. The first person who violated the Constitution of Afghanistan is the president. Why he doesn’t sign the law on population census, specify the political priorities of Afghanistan and let the disqualified ministers continue their work.”

Ghulam Hussain Naseri, “Hamid Karzai violated article 92 of constitution and president Ghani misuses his authorities.”

At the end of the meeting a series of recommendations were presented by participants which are shared with Wolesi Jirga by FEFA. The recommendations were as follow:

Recommendations

- Amendment of Constitution (Changing the structure of government);
- Convening Loy Jirga;
- Implementation of political agreement on structure of National Unity Government;
- The government must implement the constitution;
- Specification of the authorized body for interpretation of Constitution;
- If the constitution is violated the respective body is obliged to announce it and prevent its repetition;
- The Independent Commission on Overseeing the Implementation of Constitution is obliged to announce the violated articles of Constitution;
- The government is obliged to introduce the violator of constitution to judicial and justice organization;