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**E**  
**F** موسسه اجتماع انتخابات آزاد و عادلانه افغانستان  
**A**  
**o** Free & Fair Election Forum of Afghanistan organization

## **How should the parliament have effective oversight over government?**

### **Subject**

In circumstances, as corruption pervades all over the government and chronically and rampantly sear the arteries of the essence of government, the Parliament oversight on the government is more important than ever before. The Parliament, which is composed of elected representatives of the people, has the authority and responsibility to exercise effective oversight over the government alongside legislation and representation of the people. The findings of the FEFA study of parliament show that parliament did not perform well in oversight of the government in the 16th session. Parliament merely uses the mechanisms for hearing of the reports of state institutions, questioning of senior government officials, and interpellation /impeaching of some senior officials in a formal and nominal manner that yields no significant results. Parliament has disqualified ministers on several occasions, but the ministers continued to work as acting ministers, with zero accountability and responsiveness to parliament remained on power and misappropriated and embezzled the resources of the ministries with no limitations.

Parliament abolished the presidential legislative decree on the taxation of mobile credit, but the government disregarded parliament's decision and continued to impose a tax on credit. In addition, the president has illegally issued dozens of legislative decrees. Because under Article 79 of the Constitution, the government can only issue legislative decrees when the Wolesi Jirga is closed and it was urgent and necessary, with the exception of budgetary and financial affairs. These decrees shall be submitted to the Assembly within 7 days of the date of the first session of the National Assembly and shall be revoked if rejected by the National Assembly. In practice, however, the government has issued legislative decrees that have no necessity or urgency, and on the other hand the parliament

have also not been closed/on vacation (for example, Legislative Decree No (256) dated 03/03/2018). Regarding the law on access to Information).

In general, despite the fact that under the Articles 69 and 77 of the Constitution the government and even the President is responsible to the Wolesi Jirga and must be accountable to the representatives of the Wolesi Jirga for his conduct and

performance, but in practice it is the Presidency that holds the Wolesi Jirga Controls and exerts influence. Analysts may attribute the root causes of the situation to different factors, but it was better to look at it from the perspective of Wolesi Jirga representatives, political parties, Parliament members, academics and civil society members, and at the same time in order to address it study the views of different segments and groups of people, including the current parliamentarians.

Therefore, FEFA held a meeting on July the 17 with the participation of members of parliament, representatives of political parties, members of civil society organizations, students and members of the MPs Union of Afghanistan Participants in the meeting analyzed the challenges and obstacles of effective parliamentary oversight of the government, and each made suggestions for realizing effective parliamentary oversight of the government. The content of the discussion can be divided into several categories.

At the beginning of the meeting, FEFA's leadership and staff paved the way for discussion and debate by analyzing the performance of Parliament in the 16th term and sharing their findings with the participants. Subsequently, experts from the MPs Union of Afghanistan presented an analysis of the legal status of MPs and parliament, stressing on the importance value of the division of powers and the preservation of legislative independence. Representatives of political parties and representatives of academic institutions also expressed their views respectively. Finally, the representative people in parliament shared their views and positions on effective parliamentary oversight of the government. We will review the above in further detail in the following sections.

### **A. FEFA's report on parliament's performance**

At the beginning of the meeting, Mr. Youssef Rashid, Chief Executive Director of FEFA, praised the participants and emphasized the role and status of Parliament in the country and reviewed the performance of the 16th term of Parliament. He also briefed participants on FEFA's goals and plans.

He stated that in past FEFA has been monitoring and analyzing the performance of the parliament and have been publishing its findings in the form of comprehensive reports sharing it with civil society organizations, academic institutions, citizens and representatives of parliament to broaden their awareness. But in the seventeenth term the FEFA, will put the reform of parliament in center of gravity of its activities.

In his assessment of parliament, Mr. Rashid said some MPs had excellent goals and perspectives, but because of the lack of coordination and opposition from other MPs, they failed to achieve their goals in order to implement reforms in parliament. Mr. Rashid assessed the performance of parliament in the sixteenth term as relatively satisfactory. But according to Mr. Rashid's analysis, parliament's performance in overseeing governance and representation of constituencies has not been effective.

Mr. Rashid also spoke about the presidential election, which is set to take place this year, calling the election important and challenging. On the basis of Mr. Rashid's point of view, the candidacy of President and the Chief Executive Office, both of whom are in power, will complicate the election process. He added that FEFA, as a civil society organization, will strive for transparent, inclusive and fair elections and will spare no effort in this regard.

On the basis of the meeting agenda, Mr. Motaref also analyzed the past terms of parliament and paved the way for planning and analyzing the seventeenth round of parliament. He initially reported at a meeting FEFA's cooperation with parliament at a previous terms. He added that in the field of legislation the Parliament has passed several legislative document quantitatively in the 16th round, but has not been effective in overseeing government and the use of regulatory tools. Parliament has not been successful in using tools such as Hearing, questioning and interpellation of senior government officials at the 16th term. The reason for this failure is due to the lack of coordination among the parliament members, who were divided into several groups and were unable to take serious action.

Mr. Motaref added that the extension of parliament's work for three years after the end of the five-year statutory term on the presidential decree had damaged the legitimacy of parliament, thereby weakening parliament against the executive branch. He added that according to provisions of the constitution, the parliament can even disqualified the president, in practice parliament has not even succeeded in discharging ministers. Ministers who were disqualified by parliament continued to serve as acting ministers. Mr. Motaref said parliamentary oversight has not brought any changes. Parliament has approved the budget but has not effectively monitored how it is implemented.

## **B. The MPs Union of Afghanistan**

At the meeting, the chairman and members of the MPs Union of Afghanistan discussed and analyzed the legal status of parliament, explaining the root cause for lack of effectiveness of parliamentary oversight over the government. The MPs Union of Afghanistan think that MPs were well-versed in the legal position and role of parliament but lacked the intention impose their authority. The power and jurisdiction of both houses of parliament are clearly stated in the constitution. Representatives are expected to exercise only constitutional authority and to oversee government on behalf of the nation. If the parliament acts in accordance with the explicit constitution and exercises its jurisdiction, the government cannot disobey the parliament and digress.

According to the members of the union, corruption and weak will in parliament are the cause of all incompetence. Otherwise, under Article 69 of the constitution the President is responsible before the people and the Wolesi Jirga. Parliament can approve a two-thirds majority of the votes of the Loya Jirga to oust the president. If the two-thirds of the Loya Jirga approves the decision of the Wolesi Jirga, the president shall be discharged from office and subject to a special tribunal. If it has the will, Parliament should use this tool to hold the President and the government accountable and responsible. MPs can also pressure the government by appealing to CSOs, the media, and the public to drive public minds to compel the government to be accountable and take responsibility. Parliament can pressure both the executive branch and the judiciary by collecting the signatures of two-thirds of the representatives in Loya Jirga.

Members of the MPs Union of Afghanistan also stressed that representatives should be fully aware of the constitution and other laws, act in accordance with the law, and force both the executive and the judiciary to enforce rule of law.

### **C. Representatives of political parties and civil society organizations**

Representatives of political parties and civil society organizations also commented on effective parliamentary oversight of the government. A representative of the political parties cited the lack of effectiveness of parliamentary oversight over the government as a result of the fragmentation and corruption of the MPs. The goal of monitoring is important, he added. The aim should be to address the will of the people and to enforce the law and justice. Parliament should build teams that will put forward proposals and communicate with civil society institutions and the media.

Every citizen who is deprived of his or her rights must submit documents and refer them to parliament. In turn, the Parliament, may summon the relevant minister in

parliament to ask him to solve the problem. The seriousness and decisiveness of the parliament is very important. Parliament must always take decisive action against the government. Representatives of political parties and academic and civil society organizations supported FEFA and their programs and called for such meetings to continue.

Representatives of political parties and members of civil society told MPs why don't the Parliament summon the Attorney General's Office, MOI and the Supreme Court, and do not ask them to take action for containing the corruption in the government. Why don't senior officials push these institutions to combat corruption seriously and apply the law equally to society?

Like FEFA, parliament must have public addresses and always maintain its relations with these institutions. Holding meetings with the participation of MPs and the public, which is sometimes set up by FEFA, is crucial. Because these kinds of meetings give people the opportunity to make their voices heard and to inform them of people's problems and to inform them of the pain the people suffer.

A representative of the political parties analyzed the factors affecting and using the failure of parliament to oversee the government. He described the continuation of the MPs' work after the end of the five-year term, the candidacy of some MPs for the 17th term, the failure to complete the plenary session, the culture of working as acting officials and corruption in parliament as factors that have failed parliament to oversee the government.

Some MPs, who wanted to nominate themselves in the seventeenth round, were conservative and avoided being against the government in order to prevent the government from impeding them. Remarks on the impeachment of ministers were also rooted in corruption. The distribution of money in parliament by the ministers, the granting of certain privileges to MPs by the government, such as the distribution of armored vehicles to some MPs, prevented their effective oversight of the government.

One civil society activist described corruption and ethnic prejudice as a major factor in parliament's failure to oversee the government. He said: A member of parliament who receives money from the government cannot oversee the government. When the Speaker of parliament goes to Citadel for a photo shoot with the President, and the President even wants other MPs to report to him, but the possibility of parliamentary oversight over the government is out of the question.

The representative of one of the political parties, insisting on preventing corruption in parliament, added that some MPs are under the influence of the government and can never oversee the performance of government.

He added that the result of the 17th parliamentary elections was not acceptable to the people and as a result the legitimacy of the parliament was reduced to the

people. MPs' dispute over selection administrative board for two- month and parliament's silence over allegations of sexual and moral corruption in the citadel and government, the appointment and removal of a group of government employees by the presidential citadel as the election draws to a close, and all cause That the public opinion should change negatively towards parliament. When a foreign woman is sexually harassed, a governor is suspended and prosecuted, but when Afghan women are harassed by senior civil servants, parliament and government are silent. Representatives of political parties emphasized that MPs should respect the people's vote and maintain the independence of the legislature.

"We have no hope for the MPs," said one participant in anger and frustration. Some MPs receive extra salary from the president's office. We have no expectations from the corrupt. The law, which has been enacted by legislative decree, has not been considered by parliament. Even the electoral law, despite its importance and significance, has been enacted by a presidential decree. "We are disappointed and frustrated by both the government and parliament."

University Students attending the meeting described the socio-political situation of Afghanistan as ethnic and full of prejudice. They emphasized the need for MPs to have the necessary political and legal knowledge, and called up on the representatives to eliminate corruption and prejudice in parliament. According to students, MPs need to have a good understanding of the concept of parliamentary oversight and competence. They added that the parliamentary administration's election showed that it was a weak parliament. One student claimed that \$ 170 million was spent on administrative board elections, which marks the height of corruption in parliament. Students also added that policies must be developed for enforcement of laws. A technical team should be created to make a strategic plan for parliament and carry out the technical work.

All participants in the meeting, have been introduced by civil society institutions, had a very negative view of parliament. They expressed dissatisfaction with the widespread corruption in parliament, the ethnic and linguistic prejudice of MPs, the weakness and inability of MPs to effectively oversee the government and called for these challenges to be addressed.

All participants in the meeting urged the parliamentarians to observe the constitution and the principles of internal duties of the Wolesi Jirga in their conduct and practice and to work in full harmony with the preservation of the independence of the legislature and effective oversight of the government. All participants condemned and denounce the widespread corruption in parliament and urged MPs to take new measures to curb corruption. Participants also emphasized effective

parliamentary oversight of the government and urged representatives to act decisively against the government.

#### **D. Members of Parliament**

The MPs attending the meeting responded differently to the views of civil society members and political party representatives. Some of them boasted of participants' harsh and critical stances on parliament. A number of his own MPs had a critical view of parliament's performance and even expressed shame and embarrassment that they were members of parliament. In the following paragraphs, we briefly examine the views of representatives on the performance of parliament and the creation of mechanisms to address parliamentary problems.

Responding to the views of political parties and civil society, one MP said: "MPs are not angels who have been descended from heaven; MPs have risen from the people and society; both oppressors and the oppressed are to blame. Why did people choose such representatives in existence civil society organizations like FEFA? The 17th round of parliament is weaker than the previous one. You will thank Mr. Ebrahimi, the former Speaker of Parliament; the current Speaker of Parliament has appointed all the chairmen of the commissions and has distributed \$ 20,000 each to use it for buying votes.

The controversy over the selection of the administrative staff is still ongoing and the head of the Commission on women's affair is still not finalized. Parliament is a self-governing body that is not accountable to anyone. America, with its greatness, cannot control parliament. Ultimately, the United States created a commission consisting of two major parties. The commission has referred dozens of MPs to the court. Afghanistan should also build an independent oversight body and oversee the MPs. The government has also become an absolute capricious body. The ugly face of MPs must be revealed to the public. Knowledge is the power of the people. I'm ashamed to be a MP. "The people should control these MPs, and if not, the day comes when the MPs will run people over."

Another young MP, that it is his first round of representation in parliament before being elected as a MP, was an active member of the civil society and a provincial council member, with strong criticism from the protesters. He called this kind of stance against parliament a desperate. He stated that a crime is a personal offense/act and that anyone who commits a crime, only himself should be held accountable and convicted. If a MP is corrupt, we should not generalize his corruption to all the MPs in parliament.

You should not just rotate the axis of Kabul province. In the provinces, there is neither the media nor the telephone, the mafia has taken the public hostages. We



have fought against the Mafia and have come to parliament with a clean valid votes. We are disappointed and frustrated with the people. People ethnicize everything. When we protested against corruption in the assembly's election process, all the people were chanting their ethnic stance. The political consciousness of the people must go up. Those who failed in the elections should not defame their sister and the government. Why didn't I get an immoral request? Negative publicity has weakened our spirits. Separate the MP who came from the poor families, and made his /her way to the assembly with the clear votes through his own efforts, from the sons of tribal leaders. Why don't you support the vote you gave to your MP? There are those who come to the parliament only to serve the people. Black and white must be differentiated. You should Support good MPs.

The MP argued that the weakness of the parliament was due to the weak administration of the Wolesi Jirga, which both suffered from corruption and lacked the capacity to run the parliament. He said I am not afraid of Taliban despite what I have said in the media, but I am afraid of those in government. I survived assassination several times.

Another MP acknowledged that parliament was too weak. The MPs are lacking information. MPs expect people to support them. The MP said: "At first we were ready to work even on off days, but MPs who used to be in the parliament in the past and are now celebrating ridicule us and say we have too much time to work until we work Get tired. They destroyed our motivation. Civil society institutions should play an active role and provide information to MPs. The government does not report to MPs on its plans and activities. MPs want the media, civil society and the people to be strong.

CSOs may share information with the public through the media. People who choose a MP are also responsible for their performance. The problem is Not in young MPs. We have neither a car nor a bodyguard. When we go to the ministries we are insulted and humiliated. Separate us from corrupt MPs. "We are servants of our people. If we go to the ministries, it is the people's problem we go far."

A young female Member of Parliament , who had no background in this regard and was in Parliament for the 17th round said that each MP should be judged separately. The youth have energy and they have come to parliament with purpose and ambition. The problem herein is that there is no agenda in parliament. The seeds of corruption have been planted in the past, and now we see the harvest of

it. The youth are not the cause of corruption. Do not judge unilaterally and monitor the MPs.

But one of the MPs criticized on of the performance of the parliament. He strongly criticized parliament, saying that I disagree with your view performance of parliament. You say parliament has done well in the legislature. While the parliament has not done well in any part. MPs are more concerned with their own group interests when enacting laws. Parliament approves 150000 one hundred and fifty thousand AFNs for themselves and 487000 four hundred and eighty-seven thousand AFNs for president, but for labors, it determines 5,000 Afghanis as monthly salary. This law is not fair.

The law has access to information has problems and prevents people from accessing information. At the time, the law states that information should not be shared with the public if it is a matter of honor and dignity. Whereas the corrupt person should be introduced to the public and the people should know about the corruption of each person.

The MP also blamed the people for the current situation of parliament. He said he had repeatedly called on people to protest against the betrayal of their honor by the presidential citadel. The presidential citadel has betrayed the nation's honor, but the people have been silent and indifferent. According to the MP, corruption is not just about bribery, but based on the law on fighting corruption is:

Any decision to abuse power based on ethnicity is corruption. If we have a more comprehensive view of corruption, most of the work of MPs and government officials is considered as subset of corruption.

According to the representative, the law is based on public expediency, but MPs abandon the law and claim to act in the public interest. MPs use each article separately for their own benefit. Article 5 the principles of the internal duties of the Wolesi Jirga are for the adoption of the law, not for the election of the Speaker of the Parliament. The election of the President of the Assembly shall be based on a present majority, not a vote cast.

"The constitution has a problem," the influential MP said. We have so many constitutions: one constitution that has been signed off by Mr. Mojaddedi. The constitution published by the government with amendments in official gazette. This constitution has also caused tension among the people. I said in parliament that we should summon those who have emended the constitution to the parliament and question them why they have changed the law and which parts of the law have been changed, but the MPs opposed it. In the Parliament votes are casted based on money. The MPs do not fight against the demon inside them. "

## **Conclusion and recommendations**

As a conclusion, it can be said that all political party representatives, civil society representatives and students were extremely dissatisfied with the performance of parliament. Participants have described widespread corruption in parliament as a destructive and catastrophic factor that, if not contained, will prevent parliament from fulfilling its mission and obligations and will render the legislature weak and incapable against the government. Participants also expressed their disgust and despair with the ethnic and group prejudice in parliament and the low capacity of MPs. They consider the behavior and performance of MPs in the selection process of administrative board, as ridiculous and a sign of impartiality and corruption, and called on MPs to take serious action to prevent such behavior in parliament.

As a whole, proposals of all the participants could be listed as follow:

1. The independence of the legislature from the executive power must be maintained and all MPs must be committed to maintaining it.
2. The Wolesi Jirga's jurisdiction enshrined in Articles 69 and 77 of the Constitution must be exercised in the event that the Government is not accountable and responsive to Parliament.
3. Wolesi Jirga representatives Establish mechanism for effective oversight of the government.
4. Representatives shall focus on national interests and pay attention to the status and role of parliament among themselves which is necessary for effective oversight of government.
5. MPs, whom it is their first term in parliament, should strive to enhance their legal and political knowledge and raise their awareness of the powers and functions of parliament.
6. The MPs shall respect the constitution, other laws and principles of the internal duties of the Wolesi Jirga and abide by it in their conduct.
7. Serious combat against corruption in parliament must be incited. An inter-parliamentary mechanism to combat corruption shall be developed.
8. Meetings between MPs and representatives of civil society and the public should be expanded.
9. Members of committees should be invited to such meetings
10. The information FEFA collects about parliament should be shared with the public.

11. Parliamentarians should make every effort to exterminate the ethnic and group prejudice.
12. The vote of confidence must be based on the competence of the ministerial candidate, not on the basis of ethnicity or language.