

Nai Supporting Open Media in Afghanistan



نای حمایت کننده رسانه های آزاد در افغانستان
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MEDIA WATCH REPORT

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Preamble:

During the period between the fall of the Taliban and the current regime, the Information and Culture Ministry drafted new media regulations five separate times. These continued revisions undermine the law. The rationale behind any regulations, for example, the mass media law, is for media organizations and reporters to adapt and work according to fixed principles. From a technical perspective, stable regulations result in stable media operations. On the other hand, there are negative consequences when laws are not followed or implemented. In many instances laws are ignored or blatantly violated.

Afghan media workers face these particular challenges. It is clearly stated in the Mass Media Law that one of responsibilities of the Mass Media Commission is to review and adjudicate media complaints. The Mass Media Law was passed three years ago, but this commission has never been established. Media violations are currently being reviewed by a Media Violations and Complaints Assessment Commission, which is not referenced in the current law. The Information and Culture Ministry obtained presidential permission to maintain this commission, but presidential decrees should not contravene existing laws. The legality of the president's decree is a separate matter. The point is, per the current regulations, the commission's verdicts are illegal because the commission is not a legal entity. Most commission decision are based on personal determinations and preferences and on the basis of decrees issued by the Information and Culture Ministry.

Illegal institutions cannot implement the law properly and the results are illegal decisions. We need to question the Information and Culture Ministry and members of the current complaints commission about the source of their privileges when there is no legal basis for them. Is this not a misuse of government funds? Furthermore, presidential decrees must be within the framework of existing laws and not above the law.

There are other problems as well - the Mass Media Law has not been implemented in other areas too. An Independent Commission for RTA has not been formed; the High Media Council has not developed a strategy; the government has not supported independent media; and many other aspects of the law are being ignored.

Now, not only has the existing law been ignored, the Information and Culture Ministry is preparing amendments to the law, but the rationale for this is entirely unclear. Meanwhile, media workers continue to be targets of various attacks and threats, and government institutions have not taken action, or they have ignored these incidents.

With that said, the following topics are covered in this report:

- 1. Radio Dunya in Charikar, Parwan target of attack**
- 2. *Afghan Nang* publication and Paktia Media Center shut down**
- 3. MP allegedly threatens reporter in Mazar-e Sharif**
- 4. Reporter claims MP's bodyguards assaulted him**
- 5. Private TV station manager in Herat receives threats**
- 6. Nasto Naderi, Noorin TV presenter, released after 18-day detention**
- 7. Lack of employer support for injured media worker in Herat**
- 8. Media Watch criticizes proposed amendments to Mass Media Law**
- 9. Afghan reporter Sami Mehdi is recipient of international journalism award**
- 10. and Afghan Mass Media Law Analysis**

Radio Dunya in Charikar, Parwan target of attack

A number of unknown persons attacked the Charikar-based Radio Dunya by throwing a hand grenade at the station building around 2 a.m. on May 29. One station employee was injured and there was extensive damage to the building and equipment.

Acting station director Shafi Mushfiq said the attack caused \$3,000 in damages, but the station did not stop broadcasting. Mr. Mushfiq said the identity of the attackers is still unknown, but he suspected people who are opposed to freedom of expression and independent media in Afghanistan.

Ahmad Henaish, a representative of the Free Afghan Journalist Association north of Kabul, said the attack was unprecedented. He called on security agencies to do a thorough investigation. Mr. Henaish said the station disseminates news and information on social and community problems facing residents in Charikar. "The enemies of the country tried to prevent the station from providing the public with information."

Parwan security officials said that an investigation has been initiated. Parwan Police Chief Mohammad Akram Bekzad said he has sent a team of investigators to the scene of the attack. No arrests have been made so far.

Radio Dunya began broadcasting in 2011. The station was started by a group of local reporters and airs diverse programming.

Media Watch condemns the attack on Radio Dunya as a destructive act and we urge Parwan officials to identify the perpetrators and bring them to justice.

The attack on a radio station just 50 kilometers outside of Kabul concerns media workers and raises questions about Afghan security agencies. The incident in Charikar, where security is relatively good, also worries residents about potential terrorists in their city and future instability.

Zakia Zaki, manager of Radio Solh in Parwan, was murdered six years ago in her home, but her killers were never caught. Media Watch believes that if the government fails to identify and prosecute the enemies of freedom of speech, media workers will encounter more challenges. Although the Parwan police chief has responded seriously to the incident, the outcome of the investigation will determine if security agencies are pursuing the case seriously.

***Afghan Nang* publication and Paktia Media Center shut down**

Afghan Nang and the Paktia Media Center, located in the provincial capital Gardez, were closed down by the director of the Paktia Department of Information and Culture on May 22. Media Watch also received reports that *Afghan Nang* Deputy Editor Farid Ahmad Taskeen was beaten.

Paktia Media Center Director Lemar Niazi, who also manages *Afghan Nang*, spoke to Media Watch: “After we had published a satirical article, the director of the Department for Information and Culture Mohammad Shefa Mushfiq and a number of police officers came to our office building, which houses both the paper and the media center, on May 22. They threatened our staff and closed our offices.”

Mr. Niazi explained the violent responses. “In an administrative meeting of the province, it was decided that the management of *Afghan Nang* should be referred to the Attorney General’s Office and that the publication should be shut down. At that time I was not in the office, but my assistant, Farid Ahmad Taskeen, was there. The director of the information and culture department and several police officers entered our offices. The director wanted the reporters to evacuate and Mr. Taskeen asked him to not to mistreat the young staff. That’s when the director assaulted Mr. Taskeen and insulted the staff. The offices were closed down too.”

Mr. Mushfiq said the publication insulted all Paktia province officials and so the media outlets were order to be banned. When a Media Watch reporter told him that officials cannot shut down a media outlet without order, he responded that “Afghan Nang publication was banned for not having a license.”

Media Watch obtained copies of current operating licenses for *Afghan Nang* and the Paktia Media Center. When Media Watch spoke with Paktia Deputy Governor Abdul Rahman Mangal he said both outlets would be reopened the following day. But two weeks on, they remain closed.

Nai Supporting Open Media in Afghanistan condemns the closure of two media outlets in Paktia province and demands that both outlets be allowed to operate again. Nai also asks that the persons who order its closures be prosecuted for violating the law. In the strongest terms possible, Media Watch condemns Paktia officials for violating the Afghan Constitution and other applicable laws. Media Watch calls on senior government officials to punish them for their violations as a deterrent to others who would attempt to stifle Afghan media. With their actions Paktia officials deprived the public of their right to information access. We strongly hope that senior officials prosecute government representatives who attempt to deprive people of their rights.

Member of Parliament allegedly threatens Balkh reporter

Balkh province reporter Mukhtar Wafayee, who works for several national and international media outlets, claims that Balkh MP Abbas Ibrahimzada threatened him. Mr. Wafayee claims that the threats were in response to some critical comments he made about bodyguards who work for parliamentarians. He states that Mr. Ibrahimzada contacted him by telephone and warned him not to speak about legislators. Mr. Wafayee said he made general comments not directed at any specific MP. He alleges that Mr. Ibrahimzada told him he had the power to have him imprisoned.

Mr. Wafayee works for Mehir TV, a local station that was established by Mr. Ibrahimzada. He was fired in March 2012. Mr. Ibrahimzada rejects Mr. Wafayee's claims and alleges that he stole some station equipment and recordings. He said he was not aware that Mr. Wafayee had been fired.

Mr. Wafayee claims that he has recorded the conversation with Mr. Ibrahimzada and the allegations of theft are designed to pressure him.

Media Watch condemns threats and intimidation of journalists by any individual or group. These actions violate human rights and they are a crime. Freedom of expression, including the expression of opinions,

is a right protected under Afghan law. Some Afghan officials do not respect human rights values and free speech. When reporters criticize public officials, some officials respond with threats of violence.

Reporter claims MP's bodyguards assaulted him

Sajad Mohammadi, a reporter for 3 TV, claims that he was assaulted by security guards working for Kandahar MP Khalid Pashtun. Mr. Mohammadi said he was en route to his home around 7 p.m. He emerged from his car in Shahrak Aria off Kabul Airport Road when he claims a car being driven by Mr. Pashtun's bodyguards stopped in front of his car. He claims bodyguards emerged from the car and beat him.

He said: "One of Mr. Pashtun's bodyguards struck me and broke my eye glasses." A few hours later he attempted to contact Mr. Pashtun, and he claims Mr. Pashtun threatened him.

"Mr. Pashtun told me via phone that 'if your clothes were not formal, they would have killed you - you don't understand the situation of Afghanistan - you don't know that the National Security Directorate told me that my life was in danger.' He also said that if the action was repeated, he would have me killed next time."

But he did not specify what that action was, Mr. Mohammadi said.

Mr. Pashtun said that after voting to approve a strategic agreement between the United States and Afghanistan, the NDS warned legislators in favor of the agreement that the Taliban would target them.

"Their car stopped very quickly and my driver had to stop and I was expecting armed persons with machine guns to emerge. I was in a panic, but I also knew my car is armored."

Mr. Pashtun added that Afghanistan is war-torn and members of parliament have approved an agreement that is controversial for Afghanistan's neighbors, and citizens, particularly reporters, should understand the sensitive context.

"Since the situation in Afghanistan is bad and we fear for our lives every moment, and I didn't have adequate guards with me at the time, I was concerned and panicked."

Mr. Mohammadi said that the airport road is a large road and there are no restrictions for drivers. He added that if legislators are concerned for their safety they should place cars on their signs warning vehicles not to follow too closely, like ISAF vehicles.

This is not the first time that a journalist was assaulted by a member of parliament. There are many cases of violence involving MPs and media workers that Nai has recorded.

Media Watch condemns all violence and mistreatment of journalists. We demand that legal and investigative authorities in Afghanistan punish proprietors of violence against journalists as a deterrent to others. Such violent actions, which are committed by members of parliament disappoint the public. Moreover, members of parliaments should know that they are representatives of people and they should respect the public. It is the public that elects them.

Aasia TV claimed to have been threatened by beauty parlors in Herat province

Aasia TV, a local station in Herat, reports that it has received threats from beauty parlors in response to an expose on high prices that the salons charge. Station managers say they were questioned three times by the Attorney General's Office and Herat chief of police.

Aasia TV Manager Abdul Satar Alokozay said: "The TV has a program called Red Card. We present problems and conflicts in Herat."

He added that the program "gives green cards" for positive social and community actions and a red card for negative ones.

Mr. Alokozay said after they received several complaints about the high cost of beauty treatments they prepared a program on the topic.

Mr. Alokozay told Media Watch: "Two women from Aasia TV were assigned to take a hidden recorder and mic to a beauty parlor. The camera were pointed at the salon signs and the women were asking how much they charge for bridal make-up. The shop workers said they charge from 20,000 to 30,000 afghanis."

Mr. Alokozay said they followed journalism ethics and they assigned a red card against the charges for each bride. The station did not air any women's faces or voices. He said the station recorded voices and faces only as documentation. After the program was broadcast, beauty salon representatives complained that Aasia TV entered their shops without permission and faked their voice recordings.

Aasia TV maintains that if violations occurred, a media commission should assess the situation, not the police or prosecutors. But the station management has been questioned by these authorities three times. Before broadcast of the program, Mr. Alokozay said the station informed officials, who supported their efforts, he added.

Herat's chief prosecutor Maria Bashir told Media Watch that her office supported the program and added that the Attorney General's Office did not question the network. "The Herat Attorney General's Office opposes social problems of this sort and welcomed the program. After Aasia TV's broadcast a

commission was formed. The purpose of the commission was to close beauty parlors that charge too much.”

Ms. Bashari said if an activity improves society, then according to the law, it is not considered a sin and no individual or agency can prohibit that activity. Ms. Bashari also said she would assign the observing prosecutor to send a letter to the police chief to inform him not to consider these claims.

Herat Police Chief Sayed Aqa Saqib told Media Watch: “I am an advocate of freedom of expression, but there are some persons that use small issues as a pretext to make themselves popular. When the representatives of beauty parlors came to us with their claims, we only questioned the station management once. We are no longer looking into this issue.”

Media Watch requests the security officials to support media when they try to expose people who extort the public and bring them into justice.

Media Watch also believes that media outlets who violate the media law should be referred to the media commission tasked with investigating violations. Furthermore, the media should be careful and should know that all the recordings and broadcasts of persons should be done with their permission. This ensures that they have documentation on the one hand and respect journalism ethics at the same time.

Nasto Nadiri, Noorin TV presenter, released after 18-day detention

Noorin TV presenter Nastoo Naderi, who hosts a program called *Sar Zameen-e Man*, was arrested on the orders of the attorney general on April 21 for insulting the Kabul mayor. He was detained for 18 days on May 9, but his case is still being reviewed.

After his release Mr. Naderi told Media Watch that after the critical program aired, the lower and upper houses of Parliament summoned the Kabul mayor for questioning. Mr. Naderi said that the attorney general then summoned him, at which time he was arrested. He condemned his arrest as illegal.

Afghanistan has a Media Violations and Complaints Assessment Commission that was tasked with reviewing complaints against media outlets and workers. If media laws are violated, the commission is tasked with referring the case to prosecutors. This procedure was by-passed in Mr. Naderi’s case. Some commissioners agree that Mr. Naderi’s arrest violates the Mass Media Law.

Commissioner Wahid Gharwal said: “Sometimes judicial and legal agencies take action by referring a case to the commission. It is better that a case be processed in a legal way.”

Mr. Naderi says he was held alongside violent criminals in austere conditions. He claims that he was not allowed to contact family and friends during his detention.

Media Watch condemns Mr. Naderi's arrest, which was illegal, and we view the Media Violations and Complaints Assessment Commission's action as unlawful. The complaints commission is not legal per the current law and a Mass Media Commission (which has not been established) is supposed to assess media violations. The Information and Culture Ministry has not dissolved the former commission, which referred Mr. Naderi's case to prosecutors without a legal basis.

These kinds of illegal arrests create doubts for media personnel who will come to view the government's actions as trying to impose restriction on independent media in Afghanistan.

Lack of employer support for injured media worker in Herat

When a media worker is injured during the course of work, his or her employer is not obligated to provide financial support. Herat-based reporter Shekib Shams was paralyzed following a traffic accident that occurred while he was working. Media workers in Herat rallied to his aid and raised some funds to pay for specialized treatment that Mr. Shams had to seek abroad.

Mr. Shams, who is employed by the national Salam Watandar program and the Herat-based Radio Sahar, said he was grateful for the financial aid, but he still had to borrow money to pay for his medical care. Mr. Shams was under treatment in India for more than a month.

"After my return to Afghanistan, none of the media outlets I worked for paid any attention to me," he told Media Watch.

Salam Watandar representative Mujtaba Ayaan said an Internews staffer from Washington visited Mr. Shams and the program aired stories about Mr. Sham's ordeal. He added that Salam Watandar is working with its headquarters to help support Mr. Shams.

Mr. Shams says he has had to borrow \$15,000 from friends. He requests that Salam Watandar and others help him.

Nai- supporting Open Media in Afghanistan established a journalists fund to support families of deceased journalists. The fund has paid the family of Sadim Khan Bahadirzoy, who was manager of Radio Melma in Pakita. He was killed a few months ago.

Media Watch applauds the support given to Mr. Shams by Herat's media workers. Their support shows solidarity among Herat's media community. This kind of unity is vital. Nai also urges Salam Watandar to support their employee and provide him assistance.

Media Watch criticizes proposed amendments to Mass Media Law

Media Watch strongly objects to a proposed amendment to the Mass Media Law as unacceptable for Afghanistan's media community.

Media Watch Manager Sediqullah Tauhidi held a press conference at Nai Supporting Open Media in Afghanistan where he said: "This is a not about amending or adjusting the Mass Media Law. It is a first draft of a new media law that will focus on restricting media activities in Afghanistan."

Mr. Tauhidi added that any amendment should facilitate the work of journalists and not mislead. "The draft law as it stands now poses problems for those who would apply the regulations and those required to follow them."



According to Mr. Tauhidi, based on this draft, government officials have higher representation compared to independent journalists and media in the following media institution: High Media Council, Mass Media Commission, Independent Commission of RTA, and a Bakhtar News Agency commission. This in itself shows the influence of the government on media.

Mr. Tauhidi said: "It's very funny that this draft proposes that the minister of Information and Culture should chair the High Media Council. Per current regulations, the chairperson is supposed to be elected." He added that most council members are proposed government officials and power or control over private media would increase. Additionally, the new draft law is not comprehensive, comprehensible and the number of articles increased from 54 to 110.

"We ask that if the Information and Culture Ministry amends the regulations, they should be clearer, not more convoluted, and they should not impede media workers and outlets from operating in Afghanistan."

The country's press regulations has been updated multiple times since 2002. This lack of consistency will result in media not following regulations, Mr. Tauhidi warned.

According to Mr. Tauhidi, lack of a consistent media law will cause the law not be obeyed by the media workers. He adds that while improvements could be made to the current law, it is effective and should not be altered.

Media workers have expressed concern about the proposed amendments. Maiwand TV reporter Babrak said he believes that while the current media law is not perfect, the first draft of the proposed new regulations will significantly limit reporters. Khurshid TV reporter Zabiullah Mubariz agrees. He said the change is an attempt to restrict media workers and create difficult conditions for them.

Afghan reporter Sami Mehdi is recipient of international journalism award

Sami Mehdi, a Channel 1 reporter, won a Knight International Journalism Award, for his exposes on domestic violence in Afghanistan. Mr. Mehdi, and a Somali journalist, were selected for the award from among 260 media workers.

Mr. Mehdi, who heads Channel 1's news and political programs, was presented the award for his work producing and hosting two shows, Kabul Debate and Neqab.

In a press conference held at Nai Supporting Open Media in Afghanistan he said the award belongs to all Afghan media workers.

"I would like to dedicate this award to all my colleagues at Channel 1."

Mr. Mehdi said he was happy because awards similar to his encourage other journalists and motivate the Afghan press.

Media Watch Manager Sediqullah Tauhidi also spoke at the press conference. He said: "On



behalf of Nai and all Afghan media workers I would like to congratulate Mr. Mehdi and I'd like to add that this award belong to all Afghan media outlets and the people of Afghanistan."

Nai presented an appreciation letter to Mr. Mehdi.

Afghan Mass Media Law Analysis

Article 49

The representatives of mass media and the organizations mentioned in Article 27 of this law are obliged to inform the Information and Culture Ministry about any changes about their activity or inactivity, address, bylaws and all other specifications mentioned in this law.

The representatives of mass media and the organizations mentioned in Article 27 of this law are obliged to report statistical information about their activities or inactivity at the beginning of every year to the Information and Culture Ministry.

Analysis

According to the Mass Media Law, media outlets and organizations are required to inform the Information and Culture Ministry when changes occur in their activities (or inactivity), address, bylaws and other requirements mentioned in the media law.

1. **Activity or Inactivity:** According to Article 47, those outlets mentioned in Article 27, print media must start their activities within one year and electronic media within two years, or they lose their . Furthermore, if after starting their activities, they are not active again for the same period of time, their operations can be suspended. If they do not, their operations can be prohibited. Although Article 47 has some shortcomings which that were analyzed in Media Watch Report #82, Article 27 of the law requires the Information and Culture Ministry to media outlets to provide accurate statistics and present it to the Ministry of Information and Culture. The first clause of Article 49 is related to this second clause, and because of its importance, the issue is repeated here.
2. **Address:** According to Article 34 of the Mass Media Law, the media and mentioned organizations should have electronic and physical addresses. When an entity's physical address (offices) or the electronic addresses changes, the Information and Culture Ministry should be informed.
3. **Bylaw:** Media and other organizations mentioned in Article 27 of the Mass Media Law including printing presses, movie production institution, printing, journalism training centers, translation centers, news agency, advertising and promotions companies, are responsible to register and have a bylaw. Indeed, bylaw is identification of a media and differentiates one media from another; by reading bylaw of a media outlet, we could know about its thoughts, contents, and trends. According to Article 31

of the Mass Media Law, the media and organization mentioned in Article 27 law are required to have bylaws. The bylaw should have the following specifications:

- Objectives
- Tashkil (organizational chart)
- Authorities
- Duties
- Amount of money owned (asset) and financial sources

Therefore, if any change occur related to the above mentioned areas, media outlets and the organizations per Article 27 of the Mass Media Law are required to inform the Information and Culture Ministry so that the ministry can update its records.

4. Other specifications

The aim of ‘other specifications’ are changes for example in frequency numbers; fundamental change in the content of broadcast programs and publication, for example, changing a sport sections to news; changes in ownership, new partners; changes in management and proprietorship; changes in language, circulation, publishing deadline of print media; checking of quantity and quality of machines and equipment in electronic media.

In conclusion, we can say that the Information and Culture Ministry does not have statistics on the number of active and inactive media outlets. It’s necessary that the ministry as a representative of the government to the media sector has an accurate understanding of the situation of the media based on which they should organize their cultural policies. The Information and Culture Ministry with respect to data collection from the media should not only rely on changes in their bylaws, but should actively inform themselves about their situations and solve their problems. In fact, most of the media, particularly the print media are very vulnerable and the Information and Culture Ministry is responsible for supporting them. Not only does the Information and Culture Ministry not recognize their problems, it does not have a solid data on the number of print media in operation.

Attention!

All journalists and media organizations are hereby notified that Mr. Mohammad Qasem Rahmani works with the Media Watch in the capacity of Media Lawyer. Those journalists and/or media outlets that face legal issues in connection with their media related and journalistic activities, or need consultation on performing such activities, may contact him by phone at **0799 830 905** or via email at: m.qasim@nai.org.af .

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To obtain a soft copy of the report, please visit the following link: <http://www.nai.org.af/Mediawatch.htm>

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