

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:

Media workers and outlets need a law that enables them to work freely and without fear. The law should address all aspects of media work, including problems facing media workers. Freedom of expression should be a central element of the law, which should generally advocate on behalf of media workers, including their employment rights and international best practices. In other words, a Mass Media Law is only effective when freedom of speech is an inviolable rule and allows room for the expansion of these rights, and the right of a free press.

Between the fall of the Taliban and the current regime, the Information and Culture Ministry has on five separate occasions drafted new media regulation. According to legal experts, these continued revisions undermine the law itself by destabilizing regulations. According to legal observers, instead of numerous revisions, the Information and Culture Ministry should explore other options, such as amending certain articles. In this way, ineffective regulations can be changed, while preserving the current law.

Unfortunately, the most recent proposed revision to the Mass Media law limits and violates freedom of speech, and in comparison to the current Mass Media Law, is less democratic. The Information and Culture Ministry prepared these revisions without input and consultation from media organizations. This type of revision required, at minimum, a national gathering wherein media outlets and workers were given the opportunity to contribute to proposed changes.

The ministry's proposed revisions has significant problems with respect to preserving the principles of freedom of expression and legal structures. For example, the composition of the High Media Council is undemocratic and unbalanced. Unlike the current media law, which requires the council chair to be elected through a vote, the proposed new law identifies the minister of Information and Culture as chairman. This is just one example of how the government is attempting to exert greater control over the media.

The Information and Culture Ministry is the only government entity that works directly with the media. As such, the ministry should be a staunch supporter and advocate for free speech and press rights, which are among the government's positive achievements. The Information and Culture Ministry needs to promote continuity of media regulations and to mitigate vulnerabilities and threats facing the media. Unfortunately, the Information and Culture Ministry struck a political deal and sought to exert greater control over the press by introducing a new law to Parliament.

When the draft was published, there was immediate and strong backlash from the media community, which likely led to the ministry withdrawing its proposed revisions. Nai Supporting Open Media in Afghanistan called the content of the draft media law a violation of freedom of expression. Nai hosted a national conference of 140 media workers and advocates to review the Mass Media Law revision. Their critique and analysis of the revisions were collated and will be forwarded to the ministry following legal review.

Meanwhile, media workers continue to be confronted with various challenges. Assaults, insults and other threats, as well as the illegal referral of media violations by the government to legal authorities continue. These actions collectively threaten the media environment. In the past two weeks, a number of media workers across Afghanistan were insulted and threatened by armed groups and by government officials.

Citizens in a society have fundamental rights and no one can abrogate those rights. Based on the Afghan Constitution, human dignity is protected and no one can insult and disrespect others. As you will read in this report, several media workers in Kandahar and Takhar provinces were insulted by government officials. This is criminal behavior requiring legal investigation.

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

- 1. Logar-based reporter's home attacked by terrorists**
- 2. Takhar journalists say they were insulted by government official**
- 3. Kandahar reporter claims police officer insulted, threatened him**
- 4. Herat police chief re-initiates inquires into Aasia TV program**
- 5. Nai hosts national conference on Mass Media Law revisions**
- 6. Herat journalists criticize "double standard" of U.S. Consulate and ISAF**

Logar-based reporter's home attacked by terrorists

A rocket nearly struck the home of Pajhwok Afghan News agency reporter Abdul Maqsood Azizi in Logar province on May 31. Mr. Azizi told Media Watch: "It was around 9 p.m. and I was having dinner with my family when suddenly a rocket hit our bedroom. Since there was no one in the room, there were no casualties, but there's extensive financial damage."

After the rocket attack, Mr. Azizi says the assailants fired their guns in the air and escaped.

Mr. Azizi lives in a district called Polak situated 11 kilometers from Pul-e Alam, the provincial capital of Logar. According to Mr. Azizi, armed fighters and different terrorist groups live in this area and the government has limited control. He said he informed Logar security officials of the attack on his home, but they have not been responsive.

However, Rais Khan, director of security in Logar, told Media Watch: "After we learned about the incident, we sent a group to the scene to investigate." He claims the Taliban are behind the attack because other armed groups are not equipped with rocket launchers.

Before the incident, Mr. Azizi was threatened via phone by unknown persons. He says he ignored the threats and continued his work. The people who threatened Mr. Azizi via phone claimed he was not respecting local values, the "jihad" and Afghan culture. Mr. Azizi said he has always been respected journalism principles and local values. Two weeks after the rocket attack, Mr. Azizi claims he received additional death threats via phone and letters.

Media Watch requests that relevant government officials, particularly Logar investigative authorities, seriously pursue this case and the threats to Mr. Azizi. If the threats are not taken seriously, the assailants may be emboldened to commit additional attacks.

Takhar journalists say they were insulted by government official

Local officials in Takhar held a press conference about a spate of poisoning in girls' schools. Attendees included Mustafa Rasooli, the acting director of press department. Mr. Rasooli provided information about the poisonings and arrests of some suspects. Reporters who attended his press conference claim they were denied the right to ask questions.

Reporter Shafiq Poya said that Mr. Rasooli insulted the press corps. Mr. Poya said: "After answering two or three questions, he quit the conference, but I approached him with questions. He insulted my colleagues and me by saying that we are not working in the press, so we do not have the right to ask questions. I contacted him via phone to follow up, but he refused again to speak to me."

Sayed Yasin Dahzad, president of the Takhar Journalists Union, also claims he was insulted by Mr. Rasooli. "Since our questions were not answered, we wanted to continue the press conference, but Mr. Rasooli insulted me using bad words. His words were so foul I cannot repeat them."

Mr. Rasooli rejects allegations that he insulted anyone. He told Media Watch via phone: "Mr. Dahzad, who is RTA Takhar director and the president of the Takhar Journalists Union, wants to shore up his

position by creating these kinds of issues." Mr. Rasooli did not explain his comments further when asked by Media Watch.

A number of local media workers complain about a lack of access to information in the province. These reporters say they cannot obtain even basic information from provincial officials. In many cases they can't broadcast their stories because of a lack of information.

Mr. Rasooli also denied this, stating that he is responsive to media requests and has gone to great lengths to cooperate with Takhar press.

Afghan media workers are regularly insulted and/or threatened by government officials. It is a trend that continues to grow. Government officials do not tolerate criticism, resulting in conflicts and confrontations with media workers. A lack of access to information has been a long-standing problem for Afghan reporters in the last 10 years.

An access to information law exists, but the law is in limbo at the Ministry of Justice. Nai calls on the proposed law, which is vital to the media, to be referred to Parliament for ratification.

Furthermore, Nai regards any insults and threats to media personnel a violation of Afghan laws and we call on judicial officials to investigate and prosecute violators of the law.

Kandahar reporter claims police officer insulted, threatened him

Sediqullah Afghan, a reporter for Radio Yawali in Kandahar, alleges that he was threatened by a police officer while interviewing a woman during a provincial-sponsored Mother's Day event.

Mother's Day, which was on June 3, was marked in a public celebration at the Kandahar Provincial Council building. Mr. Afghan alleges that he was insulted and threatened by a police officer while interviewing a woman who was not allowed to enter the building.

Kandahar governor spokesman Jawid Faisal denies this report: "No journalists was insulted or threatened. A woman complained to the police that a reporter was harassing her for an interview and an officer only asked [Mr. Afghan] not to interview her."

Mr. Afghan said his interviewee gave her consent: "The woman was completely satisfied about the interview. While we were talking, a police officer came and started insulting me. I have a video that shows the woman telling the police officer that I'm like her son, which shows that she consented to be interviewed."

Rahmatullah Atrafi, director of the Kandahar security department, told media outlets that the officer's actions revealed his lack of education, and he vowed to investigate the incident and report back to the press.

Dawa Khan Menapal, president of the Kandahar Press Club, condemned the incident. He told Media Watch that he rejects Mr. Faisal's claim about the incident. Mr. Menapal said: "Several times in the past month, reporters have been insulted and threatened by Kandahar police." Mr. Menapal demanded that Kandahar officials mitigate these kinds of attacks on the press.

Mr. Afghan describes the situation for media workers in Kandahar as dangerous. He told Media Watch: "Kandahar officials are trying to control the media and journalists in Kandahar. We can't even voice criticism, and if we do, we face serious backlash from officials. A few days ago, I posted something on Facebook and I received a phone call from the Governor's Office asking me to take it down."

Kandahar authorities say freedom of expression is properly supported in Kandahar. Mr. Faisal, the spokesman, said journalists have the right to broadcast and prepare news and reports according to the law, and the government has the right to seek details about unclear information.

Media Watch regards the police officer's actions illegal and we ask Kandahar authorities to discipline state employees who attempt to curb media freedoms. Police authorities should know that the media has the right to interview citizens and to air their complaints and concerns.

Officials in Kandahar and elsewhere in Afghanistan must know they cannot prosecute or pursue potential media violations on an individual basis and outside the scope of the law. Only the Information and Culture Ministry and the High Media Council have the right to review and assess media violations.

Aasia TV executives questioned by Herat police chief again

Last month Aasia TV, a local station, prepared a consumer report on the high cost of beauty parlor services, which resulted in complaints by salon owners and subsequent police inquiries. After the program was broadcast, the Herat Attorney General's Office shut down certain salons and lauded the station for exposing a social problem, but Herat police officials questioned station executives. Aasia TV and Media Watch questioned the inquiries and were assured by prosecutors and the police that the issue would be dropped.

Now, one month on, the Herat chief of police sent Aasia TV a summons to answer complaints made against the station.

Media Watch contacted Herat's chief prosecutor Maria Bashir, who repeated her support for Aasia TV. She said the station did not violate any laws. She also said a prosecutor would be assigned to inform the police chief not to investigate complaints.

Despite repeated attempts, Media Watch was unable to speak to the Herat chief of police. The head of the provincial security department declined to be interviewed, stating that he was recently recruited and not fully informed about the issue.

Aasia TV Manager Abdul Satar Alokozay believes the police investigation is motivated by personal grudges. "A number of security officials would like to create problems for the station because our network discloses facts," he said.

Media Watch believes that this kind of pressure violates the law and we request local authorities to stop harassing Aasia TV. Aasia TV identified a social issue and attempted to address it. The station's efforts were lauded by the Herat Attorney General's Office. The police pressure on Aasia TV is a form of intimidation and rightly concerns media personnel in Afghanistan.

Nai hosts national conference on Mass Media Law revisions

Nai hosted a national conference on June 27 to identify weakness, loopholes and other problems with the current Mass Media Law and a proposed revision of law that was issued by the Information and



Culture Ministry. During the one-day national conference, 140 media workers from Kabul and the provinces reviewed the Mass Media Law in working groups.

Media Watch Director Sediqullah Tawhidi kicked off the event with a press conference: "The Mass Media Law of Afghanistan has several shortcomings that need to be addressed and amended; however,

the revisions and amendments proposed by the Information and Culture Ministry are not complete and they limit freedom of expression.”

As an example, Mr. Tawhidi cited proposed changes to the composition of the High Media Council. “The Information and Culture minister is assigned chairman and the majority of council members are identified from [Parliament], the Ministry of Justice and the Supreme Court, with only four council seats for media representatives,” he said.

Mr. Tawhidi said that many of the revisions were ambiguous. He asked conference participants to identify its shortcomings, particularly those that would limit media rights and he asked attendees to propose relevant recommendations to improve the law.

Participants were divided into five working groups and assigned various articles of the law for review.



Discussions lasted three hours and suggestions were compiled and provided to Nai. Nai collated those suggestions and planned to forward them to the Information and Culture Ministry.

The proposed revision would have been sent to the Wolesi Jirga for review, but as of writing, the Ministry recalled its proposed revisions.

Afghan journalists generally regarded the ministry’s revisions as insufficient and unacceptable.

Herat journalists criticize “double standard” of U.S. Consulate and ISAF

A number of journalists and media advocacy organizations in Herat say some foreign agencies are showing a “double standard” when it comes to inviting local Afghan media to press events. Herati media workers claim that in the past two weeks they were not invited to U.S. Consulate and ISAF press events, limiting their access to news and information. The Herat Department of Information and Culture voiced its support for these reporters and said it would address the issue with these entities.

Reporters claim that most recently, certain media outlets were not invited to an ISAF press event featuring discussions by governors of the western provinces about regional improvements and urban development plans.

Reporter Ashraaf Alsatat Alavi told Media Watch: “Several times now foreign entities in Afghanistan have discriminated against certain reporters.”

Nahmatullah Ishaqzai, another reporter, agreed: “The actions against journalists recently not only hurt freedom of expression, but they also create mistrust between journalists and political representatives of foreign countries.”

Reporter Abbas Poya told Media Watch: “The conference that the governors of the western zone held in coordination with ISAF should be held again in a different venue so that all journalists can attend.”

Herat Information and Culture Department Director Ahmad Ihsan Sarwaryar told Media Watch that he supports these journalist: “Any kind of distasteful behavior toward media by any entity is a violation and the entities should be attentive to this issue. We condemn [this] because media workers are responsible for providing information to the public. We request all national and international agencies to treat all journalist equally.”

Omar Naseer Mujadidi, manager of the Herat Journalist House, said his group would look into the issue: “We will investigate to determine why some journalists are not invited, and if this is a policy or if there was a lack of space for all media.”

Homayoon Nazari, manager of a journalists' safety committee in western Afghanistan said: “If this continues, it will create division among media, and reporters will become less interested in their work.”

This is the second time that the selection of media outlets and reporters in Herat has come under scrutiny. Only a limited number of media were invited to the inauguration of the U.S. Consulate in Herat last week, resulting in much criticism from local media.

Afghan Mass Media Law Analysis

By Mohammad Qasim Rahmani

Article 50: The branches of agencies and the foreign mass media that wish to work in Afghanistan are obliged to obtain a letter of introduction from the Ministry of Foreign Affairs and should inform the Information and Culture Ministry about their country of origin, type of activity, duration of activity, and the place of activity in a written form; they also need to obtain a special journalism identification card.

1. Agencies and the media registered in clause (1) of this article are obliged to follow and practice Article 45 of this law.

Analysis: With the passing of time, international relationships in various areas is expanding, which results in further understanding and collaboration between nations. In this process, the role of media is more pronounced than any other communication tool. Today media are engaged in political, economic, business, educational and cultural exchanges. Media outlets inform a global public about minor incidents that takes place.

Now it is the duty of nations to ensure the human rights of persons irrespective of their nationality, particularly freedom of expression and the right to access information based on Article 19 of International Covenant for Civil and Political Rights. Indeed, persons who hold foreign citizenships are also obliged to respect the sovereignty, security and rights of the host country.

It is worth noting that according to international law, countries can consider/pose some regulations and administrative procedures as long as they are transparent and in accordance with the principles of freedom of expression.

By obeying the mentioned principle, the Mass Media Law organized the activities of foreign citizens in reporting, media and artistic work in articles 48 and 50.

According to Article 48, foreign citizens are obliged to have a letter of introduction from the Ministry of Foreign Affairs and obtain permission from the Information and Culture Ministry to make feature films and documentaries. The paperwork for film production and documentaries, which was discussed in Article 48, is different from working as media outlet/journalist in the following ways:

1. Foreign citizens must obtain permission from the Information and Culture Ministry prior to making a movie or documentary, but the branches/representatives of agencies and foreign mass media outlets are not obliged to have permission. They only need to inform the Information and Culture Ministry about their country of origin, type of activity, duration of activity and place of activity.

2. Foreign citizens do not need to get special identification cards for making feature films or documentaries, but representatives of agencies and foreign mass media outlets are required to obtain special cards.

3. The representatives and agencies of foreign mass media outlets under Article 5 (2) are obliged to obey Article 45.

Foreign citizens who produce movies or documentaries are not referenced in the law, which demonstrates a loophole. Based on Article 45 of the Mass Media Law, foreign NGOs can establish printing press, film production companies, publications, journalism training centers, translation centers, news agencies and advertisement companies according to the law and based on Article 45, they are obliged to obey the rules of the Article. We need to differentiate between foreign NGOs as legal persons who have work permits from the relevant government authorities and foreign citizens as natural persons. The provisions for the arrangement of those NGOs for foreign citizens are not applicable to Article 48. In considering these issues, representatives and agencies of foreign mass media outlets should follow the legal terms for working in Afghanistan. Based on Article 50 they should not start their activities before completing all the administrative procedures because this is against the law and will undermine the sovereignty of the government.

It is worth noting that representatives and agencies of foreign mass media outlets like local journalists have freedom of expression and have the right to access information.

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>

Note:

1. *To maintain confidentiality and to protect sources it was not possible for Nai Supporting Open Media in Afghanistan to corroborate the incidents by carrying out additional investigations.*
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