

Nai Supporting Open Media in Afghanistan



نای حمایت کننده رسانه های آزاد در افغانستان
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Preamble:

Journalists in Afghanistan regularly face restrictions and threats. Based on recent developments, it appears that these threats are becoming systemic indicating that the government is reversing its commitment to freedom of expression and democracy. A recent presidential decree calling on the Information and Culture Ministry to monitor media content and the creation of a restrictive “media pool” in parliament are just two examples.

In a decree issued 26 July, the President tasks the Information and Culture Ministry with drafting a plan to monitor media content quality and establish broadcasting standards for private and state media outlets. This plan will be presented to the Ministers Council for review. Afghanistan has a Mass Media Law that is supposed to be monitored by a Mass Media Commission. The President’s decree indicates that the government opposes the current law and intends to create media restrictions.

The government is not enlisting the media in its fight against administrative corruption or promoting rule of law as other democratic countries do. In fact, the Afghan government’s restrictions will undermine the fight against corruption. Meanwhile, lawmakers have tried to corral media workers into a restricted room they refer to as the media pool in a clear move designed to limit information access and enable censorship. What is parliament attempting to hide from the public and the press?

The following subjects are covered in this edition of Media Watch:

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Paiwastoon Radio reporter claims ANSF abuses in Uruzgan province

Najeebullah Latif, an Uruzgan-based reporter who works for Radio Paiwastoon and Tolo TV, claims he was assaulted by security forces.

In an interview with Media Watch, Mr. Latif said that he was en route to his office at around 7 am in Tirin Kot city when several ANSF vehicles crashed into his car. He said that after the accident a military force officer insulted him and beat him.

He added: “Although I introduced myself as a journalist, they didn’t care. They put me inside the military truck and beat me. They took me to the deputy governor’s office, Khudai Rahim Khan, where I explained the incident to him. He also blamed me without evidence.”

Mr. Latif said the police did not allow traffic police to intervene and rule on the accident. He also submitted a petition asking the Governor’s Office to investigate. The deputy governor, Mr. Khan, told Media watch that Mr. Latif’s claims were baseless: “No one beat this reporter. When we asked if there should be an investigation both traffic police and he said declined.”

Meanwhile, media workers in Uruzgan say that access to information in the province is severely limited. Reporters say any criticism of the provincial government garners them threats or insults from officials.

Mr. Latif said a reporter who recently wrote about the activities of the Governor’s Office was seriously beaten and is now under investigation. This reporter was beaten only because he sought information and asked critical questions. He declined to give the reporter’s name, citing fears of further retribution.

Mr. Khan says the government cooperates with local journalists, including during the governor’s trips and events. He also said he believed reporters were central to disseminating information to the public.

Media Watch urges provincial governments to provide information to reporters and to prevent abuses of media workers and citizens. When these basic rights and respects are ignored it demonstrates that the state treats citizens and journalists with little regard. Media Watch strives to discuss matters concerning journalists who are assaulted with relevant authorities and we will follow up on the case of the unnamed reported who was reportedly beaten.

New censorship tactic introduced by Parliament

After Parliament's summer recess, a special room called the media pool was opened to provide reporters with access to sound and pictures from the parliamentary floor.

Journalists have not been able to cover legislative sessions directly since the room was established — reporters only have access to images and audio through televisions set up in the room. Funded at a



wasteful cost of \$2 million, media workers regard the room as a means to censor the media and limit information access.

Noor TV Hamid Sidiqi said: “The definition I’m getting from the media pool is censorship room.”

Pajhwok Afghan News agency reporter Abasin Zahir is one of several journalists based in the media pool room. He said: “Since the establishment of the room we cannot get what we need from inside the parliament hall. The pictures and sounds that are broadcasted through the media pool is what MPs allow us to hear, not necessarily what we want to see and hear. When there are disputes between MPs, our screens are blank except for the Parliament logo.”

Saliha Sadat, a Tolo TV news reporter, agreed: “The media pool is completely a censorship room for reporters because what the MPs want we get and what they don’t want us to see, we don’t get.”

All media representatives present in the media pool who were interviewed by Media Watch said they opposed being relegated to the room.

Hussain Hasrat, who reports for Dutch Radio and *Hasht Sobh Daily*, said: “With the establishment of the media pool, our problems have increased greatly. For example, when an MP speaks and another MPs rebuts, journalists only hear the voice of the MPs, but we can’t see who’s criticizing the lawmaker because the camera is focusing on the MP who spoke originally.”

He said he believes a plan to limit the media access to public information is starting with parliament and will spread to other government institutions in the lead up to elections and foreign troop drawdowns in 2014. He said he was concerned about further restrictions on press activities.

Photojournalists and videographers are particularly restricted by the the limited visual feed into the media pool. On Aug. 4, when Parliament delivered no-confidence votes for the ministers of interior and defense, reporters could not get the images they wanted. During the impeachment discussions, several lawmakers had physical altercations, but reporters had to use footage provided by the secretariat, which was limited.

Ms. Sadat said: “During the impeachment of the ministers of defense and interior, which resulted in disputes among legislators, the audio-visual feed into the media pool were cut off. Even in minor disputes that shouldn’t be censored, our feed is censored.”

Print media representatives are also hampered because they have no access to photos.

Mr. Zaheer said: “I work for a news agency and we need photos and pictures. From the media pool, we can only see the parliament through a television screen. We can’t take photos of a TV screen.”

Furthermore, reporters are not allowed to leave the media pool room to seek individual interviews with lawmakers.

There are also other problems facing reporters who cover parliament. Media representatives who are not registered are not allowed entry into the parliament building. Media visitors who register to meet an MP are not allowed to use that entry badge to interview an Upper House member if they were registered to visit a Lower House representative. If their badge indicates media pool, they are not allowed in the corridors where reporters commonly stop and interview lawmakers.

Mr. Zaheer, for example, wanted to speak to the director of the secretariat regarding these restrictions, but he was not allowed to enter the corridor where his office is located. “They said I couldn’t see him because I was carrying recording equipment. According to security guards, if I didn’t have my equipment, I could have gone in. These are the kinds of problem all of us reporters face on a daily basis.”

Ms. Sadat said: “Most of the time when I go to Parliament for stories either MPs are tied up in general assemblies or in commission meetings so they cannot reply to telephone calls. We have to get close to them to get answers to our questions, but we’re not allowed to do that and their security guards are hostile to us.”

Mr. Serat, the *Hasht Sobh Daily* reporter, said he experiences similar problems. “Security won’t allow me to enter parliament hall to interview MPs. We are seriously restricted. If you arrive in the morning, you have to wait until the end of the work day and you’re stuck in the media pool so you can’t interview lawmakers.”

Lawmakers held a meeting on Aug. 15 to review the problems cited by journalists and different proposals were put forth. Some lawmakers agreed that the media pool was too restrictive and censored the press.

MP Asadullah Sahadat said: “The media pool is good, but journalists need to obtain information and they cannot get what they need through the resources in the room. According to the principles of free expression, and based on the Afghanistan Constitution, you and I are not allowed to impose restriction on the media or ban them from our meetings unless MPs vote to hold a closed session per parliamentary rules. We never agreed that journalists should be banned from the floor of parliament.”

MP Ramazan Bashardost agreed: “Our internal rules clearly state that the media has the right to live access, broadcast and publication of the general assemblies of Parliament except for special circumstances. When did MPs decide to change this, what day? They are trying to prevent journalists from showing you asleep [in your seats], fighting and arguing. The media pool is designed to show them you’re happy and awake.”

Not all MPs agree. Arif Rahmani said because \$2 million was spent on the media pool, journalists should benefit from its use. “Part of the general meeting that was not shown was a dispute between MPs. Is it good to broadcast disputes? If a media outlet has a problem, they broadcast a package of disputes,” he said.

Daikundi MP Mohammad Anwar Akbari was criticized by journalists for supporting the media pool.

“\$2 million dollar was spent on building the media pool,” he said during the assembly session. “First we should go to the media pool and determine if the criticisms made by journalists are factual or not. We should first invite a couple reporters to parliament and listen to their concerns and then make a decision.”

Many lawmakers are opposed to cameras on the parliament floor and direct access because they do not want to be filmed fighting or sleeping during sessions. Media representatives say they have a right to cover all parliamentary activities and to provide information access to voters who elected lawmakers.

Parliament president Haji Zahir Qadeer invited reporters back into parliament during the debate. Reporters were allowed, but cameras were banned. Media outlets only aired the media pool discussion during news reports about the session and no other parliamentary news.

The issue will be discussed by parliament in an upcoming session, and lawmakers are expected to make a decision about the media pool.

Media Watch urges members of parliament to avoid decisions that violate the Constitution. Lawmakers should uphold freedom of speech and freedom of the press. Restricting the press is against parliamentary rules, except in cases of special sessions that can be held behind closed doors.

Parliament's media pool clearly creates censorship. During the no-confidence vote of the ministers of interior and defense on Aug. 4, the feed into the media pool was censored to prevent the media from reporting on the parliamentary disputes.

Media Watch regards the media pool as illegal and asks the administrative board of the parliament to eliminate the media pool, which is against Article 4 of the Mass Media Law: "Every person has the right to freedom of thought and speech, which includes the right to seek, obtain and disseminate information and views within the limit of the law without any interference or restriction by the government or officials. The right also includes independent activities such as the publication, distribution and reception of information."

Kabul Municipality deputy assaults Tolo TV employee

A Kabul Municipality official assaulted Tolo TV cameraman Jawid Arezomand while he was filming street flooding and road closures on Aug. 28. Heavy rainfalls had created disgruntled commuters and public problems, including traffic jams. Mr. Arezomand said he was deeply concerned about the assault by the director of greenery for the 10th District. He told Media Watch: "On Sunday around 4 p.m. I was asked to go to the Kabul Airport roundabout and film the traffic problems. I was filming when Ghulam Jilani started hitting me on the back with his radio. He said that you [the press] are always trying to find negative points and problems."

He added: "Mr. Jilani not only struck me, he also cursed at me and threatened to kill me multiple times." Mr. Arezomand's assault was broadcast by Tolo TV and clearly shows Mr. Jilani hitting and threatening the cameraman.

Mr. Arezomand said: “He was upset because municipality officials do not want that their weaknesses be publicized. The rains caused massive problems for the public. People had to use street carts to cross the roads because they were flooded.”

Kabul Municipality reacted quickly and fired Mr. Jilani. Nesaar Ahmad Habibi, the director of sanitation, apologized to Mr. Arezomand. He told Media Watch: “This crime was a personal act and the behavior of the head of removal and greenery of the 10th District is not related to the municipality and therefore we fired him.”

Mr. Habibi added: “No other government administration has taken such swift action as a result of misbehavior. At 6 p.m. Tolo TV broadcast the incident and by 7 p.m. my interview was broadcast wherein I apologized and announced that the Kabul Municipality supports the press. That’s what I could do.”

Media Watch regards the assault by Mr. Jilani a crime. It is not sufficient to only fire him — he should be referred to judicial authorities for prosecution as a deterrent to other officials who assault media workers. Media Watch has regularly reported on physical and verbal retribution against media workers who publish and broadcast critical reports about government officials and activities. Media Watch also has reported consistently on assaults by the police. The Interior Affairs Ministry promises to reprimand officers in question, but no actions are ever taken.

Moahmmad Samim Yosufzai, a Kurshid TV videographer, was recently assaulted by Kabul police. He told Media Watch: “On Sept. 3, I wanted to film a dispute between people working for MP Sayed Hussain Anwari and police officers in Taimani when I was assaulted. I introduced myself as a journalist, but four policemen hit me with their weapons.”

Mr. Yosufi was taken to the police department and the police apologized to him, but he said the apology is insufficient. “Journalists are always insulted and assaulted by police officers and they just apologize.”

Mr. Arezomand said he feels humiliated because he was assaulted in public even though he committed no crime. He added that working as a videographer in a country like Afghanistan is extremely difficult. “The culture of accepting criticism is not prevalent in Afghanistan.”

He was also beaten on another occasion by security forces in Kabul. He says. “When [former president Burhanuddin] Rabbani was assassinated, I was trying to film a verbal clash between his supporters and police. I was hit by police. Since I had no documentation, they erased my tape and I had to let go of the incident.”

Media Watch reiterates that Mr. Jilani's behavior was not only unethical and inhumane, it was illegal and he should be prosecuted for physical assault and making death threats. Firing him is the minimum action — and it is insufficient per the law. By not observing the law, the government is promoting impunity of similar cruel behavior towards media workers. Ignoring the rule of law has been the Afghan government's greatest weakness in the last decade. According to international reports, Afghanistan is second most corrupt country in the world.

It is also evident that a dictator culture still prevails. Government officials are not open to criticism and they regard any critique as personal insults. Their violent reactions in response create further problems for the state.

Finance Ministry bans Tolo TV from press conferences

After airing a controversial report that Finance Minister Omar Zakhilwal received questionable deposits in excess of \$1 million into his personal bank accounts, Tolo TV has been banned from the minister's press conferences.

Tolo TV reporter Rafi Sediqi told Media Watch: "I wanted to attend a press conference at the Finance Ministry, but I was not allowed inside. When I asked security guards why, they said they had orders not to allow Tolo TV access."



He added that the television crew was not allowed to film the entrance to the ministry either.

Tolo TV News Director Sharif Hassanyar told Media Watch: "After disclosing his bank account activities, Tolo TV has been denied access to all his press conferences."

Mr. Hassanyar said that according to the law, all citizens have a right to access information and the ministry's ban is illegal.

Finance Ministry spokesman Wahid Tauhidi told Media Watch that there was no ban on Tolo TV. But he also added that no media outlet has a right to pass judgement on an individual.

Media Watch reminds all government agencies that access to information is a Constitutional right. According to the Constitution, every citizen has to right to seek information from the government and the government has to provide information unless it jeopardizes the rights and security of others. As we

can see, the Finance Ministry is acting against the Constitution by denying access to information, and they are discriminating against a media outlet.

Private press in Daikundi denied government adverts

Non-state media outlets in Daikundi complain that they are not being given advertising from the government, which is diverting advert sales to state-run media. Media workers say the problem began when the Daikundi governor via a formal letter asked all government directorates and agencies in the province to submit commercial advertisements to the Radio Television Afghanistan.

Mohammad Reza Wahidi, owner and editor-in-chief of Radio Nasim told Media Watch: “The adverts issued by the government are the only source of money for private media in Daikundi.” According to Mr. Wahidi there are no foreign NGOs or private company that air commercial advertisements, which would enable private media outlets to sustain themselves.

Media Watch obtained a copy of a letter issued by the governor’s office entitled no. 15/112. It states: “RTA is a national and impartial medium that reflects the news and reports in a true way. Also it is a public network that belongs to the public and is run with the financial support of the state.”

It is written in the letter that “the rate of the publication of advertisements in RTA is suitable compared to the private media. Hence, we hope that all directorates and government institutions submit their advertisements to RTA so that the RTA broadcasts them because the income of the government should go to the government’s account, which will be good for both the people and the government.”

Daikundi press representatives say the letter restricts the non-state media in the province.

Although the letter does not explicitly deny private media government adverts, Mr. Wahidi and other private media representatives say that the government directorates in Daikundi are misusing the letter. He added that although the advertising rates of private media is lower than the rate set by RTA, private media are not given advertisements.

Uruzgan Gov. Qurban Ali Uruzgani said private media should receive government adverts. “There are no restrictions that prevents private media from getting commercial advertisements. In the past there were only private media outlets that broadcast the advertisements.”

Gov. Uruzgani said that it is illegal to deny the private media their legal rights, adding that this would not be practical. Regarding the complaints from the private media he said: “I will clarify in the administrative meeting that no one has the right to misuse the official letters and dissemination of advertisements to all media is necessary as soon as possible.”

Media Watch considers any kind of restriction on the media illegal. This could be content restrictions as well as denying adverts to private outlets. Media Watch calls on the government to remove any potential restrictions.

While RTA is funded in part by commercial advertisements, adverts are not the station's only source of funding. The government is supposed to allocate funding to the state broadcaster. Meanwhile, private media outlets do not have sources of funding. They require state support, including commercials. If private media have to resort to illegal funding sources, it creates additional problems.

Media activists express concern about Iranian-funded journalist union

Media outlets have been reporting that a number of media representatives met with officials of the Iranian Embassy to discuss the establishment of an Iranian-supported journalists union. The daily *Hasht Sobh* (8 A.M.) disclosed that the embassy's cultural advisor Nasir Jahan Shahi invited a number of media figures to a dinner on Aug. 3 wherein he asked reporters to form a union that would be aligned with Iranian interests.

According to *Hasht Sobh*, attendees included: Jawad Mohsini from Tamadoon TV, Zia Danish of Noor TV, *Insaf Daily* staff Rezwani Bamyani, Jahfar Konduzi, Hussaini Mazari, the representative Ayatullah Makarim Shirazi in Afghanistan, Zaki Haidari of *Rushd* Weekly, Mohammad Hussain Jafari, Sahefa editor-in-chief Fasehi and Zekria Rahil of Aina TV.

Mr. Shahi told attendees that in addition to funding the union, the union should coalesce around Iranian interests. Rezwani Bamyani was made union director with Jawad Mohsini and Zekria Rahil as deputies. The report has created much backlash in the media community, with many condemning Iranian interference.

In an interview with Radio Azadi, Afghanistan Free Journalists Association President Khpelwak Safi said the formation of a journalist union by a foreign government is "alarming."

Afghanistan National Journalists Union Abdul Hamid Mubariz advisor said: "Forming unions by foreign governments is illegal. Journalists who join any such union should be banned from working as Afghan journalists"

Also in an interview with Radio Azadi, Tamadon TV owner Jawad Mohsini, who was appointed union deputy, denied that the union was illegal.

He has said: "Sometimes they conduct a council under the name of 'valuable media' for the betterment of the religious broadcasts among some media outlets." Mr. Mohsini thinks this has been distorted.

Information and Culture Ministry officials say they are looking into the reports about an Iranian-funded union.

Information and Culture Minister Sayed Makhdom Rahin told Bakhtar News Agency: “I learned of this by reading a newspaper. If the news is true, I should say that the Islamic Republic of Iran has no right to interfere in media affairs, let alone those of foreign nations, particularly neighboring countries.”

Nai Supporting Open Media in Afghanistan also express great concern about restrictions on the media. Nai issued a statement that said: “Recently through the media we have seen that neighboring countries, particularly Pakistan and Iran tend to establish their own journalist unions for their profit. That is, on the one hand they limit freedom of expression and on the other hand, create division among journalists.”

Nai regards foreign-funded unions by neighboring countries alarming and we call on media workers and outlets to identify such organizations. Media workers should not allow others to restrict the media in Afghanistan. Moreover, to protect freedom of expression and with the coordination of media outlets, the government of Afghanistan should try to prevent interference of foreign countries.

Nai, within its scope of work, defends institutions and media unions that are established by Afghans and we considers ourselves a partner in efforts to expand freedom of expression.

In accordance with the Afghanistan Constitution and to ensure their human and basic rights, it is the legal right of citizens to establish unions. However, foreign governments or agencies are not allowed to form such unions, which they can use for their own political agendas.

Analysis of Media Law article

Article 52: Issues related to copyright, forming of journalist union, media violation penalties, advertisement and acces to information will be organized in separate laws.

Analysis: The source of media rights in Afghanistan is drawn from Article 34 of Afghan Constitution. In accordance with the aforementioned article, the current Media Law has been formed. Indeed, the real source of media rights is the Mass Media Law, which organizes these rights, responsibilities and the actions of the media. In other words, the Law is considered a guide for journalists and media outlets.

In addition to the Media Law, there are a series of other regulations and laws that supplemet the Mass Media Law and which are referenced by media.

Penal code 2. Civil law, 3. Trade bylaw, 4. Communication law, 5. Law for supporting the rights of compiler, writer, artist, and researcher (copyright), 6. Regulation for using radio frequency and mobile communication stations in Afghanistan, 7. Labor law.

The above laws together regulate the country's media activities. For instance, Penal Code 2 outlines punishments related to media crimes and the communications law governs electronic media frequency issues.

What is mentioned in the aforementioned article of the Mass Media Law are the regulations that act as complimentary laws to Mass Media Law. If they are properly implemented, the problems of journalists will be solved. The regulations that are anticipated in the article of the Mass Media Law include:

Copyright Law: This law has been in effect before the effective law was approved. On Aug. 5, 2012 per serial No. 956 covering 7 chapters and 49 articles including a law supporting the rights of compilers, writers, artists, researchers (copyright). Unfortunately, although the Information and Culture Ministry is charged with enforcing the law, the law was not designed in coordination with the ministry. That is why without knowing about the law, the authors of the Mass Media Law anticipated a separate law. The current copyright law with respect to media content does not include comprehensive provisions and requires review by the Ministry of Information and Culture and a necessary amendment to protect the intellectual property rights of journalists and media outlets.

Law for the Establishment of Unions: In accordance with Article 9 of the Mass Media Law, to defend their guild's rights, journalists and other members of the mass media may establish associations, unions, or other independent guilds in accordance with the provisions of law. Although a law exists, we recommend the creation of a separate law for independent unions.

Law for Media Violations: According to Article 45 of the Mass Media Law, a number of works are prohibited that the media cannot produce and disseminate and if they do, they are regarded as violations. It is worth noting that with imposition of a law for media violations, the provisions related to media violations in the penal code are void. Unlike the penal code, which was designed during dictatorships of the past, the law should be designed with democratic values and freedom of expression in mind. Indeed, it will be good if during its design, a comparative study of the law is developed which considers the objective and subjective conditions of society.

Advertisement Law: Commercial advertisements are an important source of income for the media, particularly private media. In order for commercial advertisements to be prepared and developed based on regulations, a separate law is required. For example, in advertising food, the best quality, health and honesty should be considered; or in advertising political issues, particularly during elections, principles of impartiality should be honored.

Law for Access to Information: In accordance with Article 50 of the Constitution and Article 5 of the Mass Media Law, the right to access information is a right for all Afghan citizens, particularly journalists and media is guaranteed. In order to protect this right, a separate law is necessary. This law should create an enabling environment for the media and journalists providing them access to information. The process of accessing information, complaints about not being able to obtain information from public agencies, exceptional circumstance where information access is denied, monitoring agencies that protect access to information, defining punishments where public employees block information access, protection for whistleblowers and more are issues that need to be developed bearing in mind the principles of speed, transparency and accuracy. It is worth nothing that this law has not been developed yet though the legislative process has began. Unfortunately, lack of access to information is a major problem facing the media and journalists. Notwithstanding some media institutes including Nai regard the preparation of the first draft of this law as an effective first step in the right direction, but the government should expedite work on the legislative process.

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.*
2. *Copy right is reserved for Nai Supporting Open Media in Afghanistan,*