

Nai Supporting Open Media in Afghanistan



نای حمایت کننده رسانه های آزاد در افغانستان  
Nai Supporting Open Media in Afghanistan

# **MEDIA WATCH REPORT**

Volume: **77**

October: 2011

Sediqullah Tawhidi

Media Watch Project Manager

Cell# +93 (0) 700 279 176

[tauhidi@nai.org.af](mailto:tauhidi@nai.org.af)

## **Preamble:**

In the last 10 years media activities have increased and grown throughout Afghanistan. Freedom of speech and freedom of the press, in accordance with the Afghan Constitution and the Mass Media Law, are inalienable democratic rights.

While the Afghan press and media workers have made remarkable achievements, they continue to face challenges and threats. Some officials within the Afghan government do not support freedom of speech and they look for opportunities to suppress free expression.

According to the Afghan Constitution, every Afghan shall have the right to express his or her thoughts through speech, writing, illustrations as well as other means. Every citizen has the right to express himself publicly and to comment on social realities and issues, including through cinema. Ignoring these inviolable rights, the government has banned the release of two feature films on Afghan refugees, reportedly as a result of pressure from the Iranian government. Media Watch regards this as yet another indication that freedom of speech is not safeguarded in Afghanistan.

The infringement of free speech rights and violations of the Mass Media Law are not limited to the administration and the executive branch; parliament and the judiciary are also violating free speech laws and regulations.

Media workers are also increasingly concerned about their labor rights. New research shows that media workers are suffering as a result of certain employment practices across media organizations. Unfair, and in some cases, cruel contractual conditions, lack of benefits like insurance and retirement benefits, workplace safety and lack of transparency on the rights of media workers are issues of concern for media workers.

MWR #77 includes the following content:

- **Journalist threatened by Herat provincial prosecutor and judge**
- **Radio Zeenat threatened by multiple parties in Logar province**
- **Release of Afghan Film “Madrassa” Banned**
- **Ceremony held in Kabul to commemorate deceased TV cameraman**
- **Cameraman forcibly expelled from Afghan Senate**
- **National conference on labor terms and conditions for journalists held in Kabul**
- **Analysis of an article of Afghan mass media law**

## **Journalist threatened by Herat provincial prosecutor and judge**

Jawid Ziaratjaye, a Herat-based Tolo TV reporter, was publicly threatened by local judicial authorities after he questioned a visiting United States ambassador about administrative corruption during a press conference.

The press event, which was held in Herat city on Oct. 26, was attended by local officials and the U.S. rule of law ambassador.

Mr. Ziaratjaye says he was threatened by provincial chief prosecutor Ms. Maria Bashir and Herat appellate court chief Judge Faizi after he asked the U.S. ambassador if American development programs faced problems as a result of widespread corruption in Herat government institutions, particularly the courts and the prosecutor's office.

Mr. Ziaratjaye says: "Before the U.S. rule of law ambassador could answer my question, the appellate court chief judge became furious and accused me of venting personal grievances at the press conference. After the press conference he threatened me in presence of the governor, the U.S. rule of law ambassador and other journalists. He told Herat's chief prosecutor to investigate why I asked this question, even though I was making a general query in my capacity as a journalist."

According to several journalists who witnessed the incident, Ms. Bashir and Judge Faizi rushed at Mr. Ziaratjaye in an attempt to arrest him, but reporters and advocates from Media Watch and IMS who were present intervened, preventing his arrest.

A video recording of the incident shows Ms. Bashir telling the Tolo TV correspondent to prove his allegations, or face arrest and prosecution by the Attorney General's Office.

When contacted by Media Watch, Ms. Bashir denied threatening Mr. Ziaratjaye, adding that she just wanted to know why Mr. Ziaratjaye had not previously shared with her his concerns about administrative corruption.

Ms. Bashir says: "Mr. Ziaratjaye did not ask a question; instead he leveled a direct accusation of corruption against the prosecutor's office and Herat courts because his father is being investigated for fraud by our office. His question originated from a personal grudge."

Mr. Ziaratjaye says he asked the question in his capacity as a journalist.

After the incident, reporters questioned the Herat governor about press rights. In response to these questions, the governor acknowledged that media workers have a right to ask questions and that no one can deprive the press from the right to ask questions.



Mr. Ziaratjaye claims that he was compelled to leave Herat and relocate to Kabul as a result of subsequent pressure and threats.

Media Watch condemns the reaction of judicial officials in Herat and regards the questioning of officials during press conferences a vital journalistic responsibility. Media workers have a responsibility to report on government activities, and it is improper to require reporters to provide justification for their questions.

Herat's prosecutor's office and appellate court should address existing public concerns about corruption within their institutions instead of requiring a reporter to justify his questions.

### **Logar-based Radio Zeenat under threat from Multiple Fronts**

Radio Zeenat operator and manager Nurullah Stanekzai reports that his FM station, which is based in Logar province, is under pressure from local government, the Taliban and the Coalition Forces.

Mr. Stanekzai claims that Logar Governor Atiqullah Lodin is trying to exert editorial influence: "Although the governor states that Radio Zeenat is an independent station, he is attempting to pressure us, demanding that we air content that meets his approval – a request we will not accommodate."

Mr. Stanekzai adds: "Recently one of our reporters asked Gov. Ludin a question about Logar's deteriorating security situation. In response the governor kicked him out of his office using rude language, stating that he will only answer questions related to development, not security."

Mr. Stanekzai claims that one month after this incident, a security official who works for the governor called him to inform him that the National Security Council has sent a letter that states Radio Zeenat should be shut down because of "anti-government programming."

Stanekzai says he regards the Logar governor's reactions and behavior a serious threat to Radio Zeenat.

Gov. Ludin's spokesman, Din Mohammad Darwish, told Media Watch that he was unaware of Mr. Stanekzai's allegations, including the National Security Council letter.

Mr. Darwish told Media Watch: "The governor does not oppose the media, indeed he has supported the press and in some cases he made financial contributions to the media, including Radio Zeenat."

Mr. Darwish criticized independent media outlets in Logar province for not covering reconstruction programs and other public projects.

Meanwhile, Mr. Stanekzai also reports that he has been threatened by armed anti-government forces. Mr. Stanekzai's claims that the Taliban sent him a threatening letter reading: "You, Noorullah Stanekzai, always claim that Radio Zeenat is an independent radio station, but seemingly this radio is not independent because government officials

and Coalition Forces are frequently seen coming to this station. Therefore, the countdown to your death begins.”

Mr. Darwish said it’s unlikely that the Taliban are threatening Logar’s independent press. He claims that these media are serving the Taliban.

He added: “I don’t think that media outlets are facing Taliban threats because (the independent media) serve the Taliban more than they serve the government. For example, one of these outlets reported in its news service one day that 12 U.S. army soldiers were killed in a roadside mine attack, whereas we know that one American tank is designed for four passengers only.”

He continued: “There’s no reason for the Taliban to threaten these outlets. They have never condemned Taliban attacks, and in fact, they report insurgent activities without seeking comments from government officials.”

Mr. Stanekzai attributes the Taliban’s threats to the non-responsiveness of Nato and the Coalition. He said that when an incident takes place, the Taliban contact the station to inform reporters, and despite efforts by reporters, Nato forces do not respond to requests for information. Meanwhile, the Taliban will threaten local media if their news is not aired.

Mr. Darwish disagrees with these claims, citing an incident that occurred when he was embedded with a Nato convoy. A roadside mine exploded and damaged one of the tanks, but local media outlets reported that 6 Nato soldiers were killed and their tank destroyed. Mr. Darwish claims that this station’s report was wrong because it was based on unverified Taliban claims.

In addition to denying Mr. Stanekzai’s claims, Mr. Darwish criticizes the press for not contacting government officials for comment, adding that he believes this kind of reporting violates journalism ethics and media regulations.

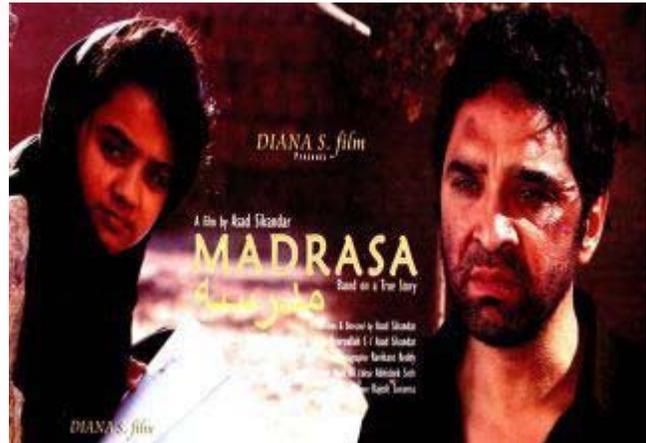
Media Watch condemns all threats to the press, and calls on independent media and government officials to improve coordination and communication. A lack of coordination results in distrust and further miscommunication, a situation that anti-government elements exploit in their favor. The Afghan media has a responsibility to disseminate information and institutionalize Afghanistan’s democratic efforts, and the media must not lose the public’s confidence.

Furthermore, mistrust and miscommunication between the state and the press can result in lack of coverage of public programs and government activity, thereby increasing the gap between the public and their government.

## Release of Afghan Film “Madrassa” Banned

“Madrassa,” an Afghan feature film produced by Asad Sekandar, was scheduled for release and public screening on Oct. 31 at the French Cultural Center in Kabul, but its officials locked the center’s doors and guests were not permitted to enter.

Mr. Sekandar’s film depicts an Afghan child living in Iran who is not allowed to go to school. Mr. Sekandar says it took him three years to make the movie, but when it came time for its release, authorities banned its screening.



Mr. Sekandar says he made the film to draw the attention of politicians and influential figures to the circumstances facing Afghan students living abroad. While he acknowledges that his film is critical, its purpose is not to humiliate or insult any country, he added.

In an interview with BBC Farsi, Mr. Sekandar claimed that Afghan government officials banned his movie at the request of diplomats from the Iranian Embassy in Kabul. Afghan Ministry of Information and Culture officials deny Mr. Sekandar’s claim.

Media organizations and media workers have reacted negatively to the ban, condemning it as a violation of freedom of expression.

In a press conference held at the offices of Nai Supporting Open Media in Afghanistan, Jawansher Haidari, who is president of the Afghan Film Union and a member of the Media Violations and Complaints Assessment Commission of the Ministry of Information and Culture, condemned the ban on “Madrassa,” regardless of the reasons, calling the ban a violation of speech and press freedoms.

Media Watch manager Seddiqullah Tauhidi also spoke at the event: “According to the Afghan Constitution and Mass Media Law, neither government officials nor others have the right to censor a film or any other media product before or after its release.”

Mr. Tauhidi called on the government to immediately allow the film’s release and screening. He also called on relevant authorities to prevent interference in Afghanistan’s cultural affairs by foreign countries and institutions.

Mr. Tauhidi asked officials of French Cultural Center and Iranian Embassy to explain why they banned the release of Mr. Sekandar’s film.

Information and Culture Minister Sayed Makhdoom Raheen says the ministry has no problems with “Madrassa” and will cooperate to release the movie.

He added: "The ministry has never banned the release of movies nor will we do so in the future because our policy is to promote media and films, not ban them."

Over the last years, Afghan filmmakers have put tremendous effort into producing films for Afghan cinema; however, at least five Afghan films have so far been banned for political, religious and/or cultural reasons. "Hamsaya" (Neighbor), "Madrasa" (school) and "Kabul Express" are among the films banned in the past.

### **Ceremony held to commemorate the memory of a deceased TV cameraman in Kabul**



A memorial service was held in Kabul for an Afghan cameraman, Farhad Taqadosi, who worked for Press TV, an Iranian English-language news network. Mr. Taqadosi passed away from a stroke after a rocket hit the station's compound during a terrorist attack in September.

The memorial was inaugurated with a message from Information and Culture Minister Sayed Makhdoom Raheen, that was read by his advisor, Jalal Noorani.

"It's a painful fact that Afghan journalists and other media workers are martyred in Afghanistan. The cowardly enemy must realize that they cannot bend our backs and prevent us from accomplishing our obligation of disseminating information to the public," the speech read.

Member of Parliament Arif Rahmani also addressed the memorial, wherein he expressed appreciation for Mr. Taqadosi's work. He called on media owners in Afghanistan to pay attention to the lives and future of journalists. Mr. Rahmani said he hoped for a future when Afghan media workers are safe from violence and able to disseminate Afghan news to the world in a secure environment.

Fazel Sancharaki, a journalist and spokesman of the Change and Hope political party, attended the ceremony and expressed regret for Farhad's death. In addition to criticizing the Afghan government for being involved in the majority of cases of violence against media workers, Mr. Sancharaki also blamed Coalition Forces for misconduct against journalists.

He added: "The cruelest violence against journalists is committed by the Taliban. Examples include the brutal beheading of Ajmal Naqshbandi, the murders of Abdul Samad Rohanni, Zakia Zaki and other journalists and activists who lost their lives."

Mr. Taqadosi passed away when a group of terrorists equipped with heavy and light weapons and grenades occupied a building in Abdul Haq Square on Sept. 13, from where they opened fire on the U.S. Embassy and ISAF Headquarters. The Press TV office, which is located in Wazir Akbar Khan near the U.S. Embassy, was hit by a rocket during the terrorist attacks. Mr. Taqadosi suffered a stroke as a result of the rocket's impact. Initially he was partially paralyzed and then he became quadriplegic. A week later, he passed away in a Kabul hospital.

An Afghan refugee, Mr. Taqadosi was born in 1985 in Mashhad, Iran where he completed his primary and secondary education. His first job was with Afghanistan Qalam Monthly, which was managed by Afghan cultural activists based in Mashhad. After repatriating to his home country, he worked as a cameraman for Saba TV, then Tamadon TV and Press TV.

### **A Cameraman Was Expelled from Senate**

Ali Reza Sharifi, a cameraman for Iran's state-run network "Sada Wa Seema" was expelled from the Afghan Upper House on Oct. 23 while he was filming parliamentary proceedings.

Mr. Sharifi told Media Watch: "On Oct. 23 I went to the Afghan Senate to record the



proceedings. While I was videotaping, a senator asked me which media outlet I represented. After I introduced myself he raised his red card to lodge a complaint. He then asked the house speaker why the Iranian press was allowed on the Senate floor. Then he shouted that Iranian and Pakistani media outlets should leave the Senate."

Mr. Sharifi claims that he was insulted by a senator and interrogated by security officers and senators for one hour.

Mohammad Alam Ezidyar, deputy speaker of Afghan senate, denies that Mr. Sharifi was insulted.

Meanwhile, the Senate is working on a new regulation that would bar international media from sessions of the National Assembly.

Media Watch urges the distinguished Afghan Senate to apologize to the press for its actions, which are not permitted per Senate procedures and rules. Media Watch also regards the proposed ban on international correspondents as inconsistent with Afghan free speech laws. We urge members of Parliament to respect the law.

No article of law or National Assembly legislation discriminates between local and international media access to information and press freedoms. Also, according to the Mass Media Law, every person can seek, obtain and publish information on state institutions, including parliament, within the provision of the law and without interference, limitations or threat from state officials.

### **National conference on labor terms and conditions for journalists held in Kabul**

A coordinating group of Afghan media representatives held a gathering in Kabul on Oct. 12 to discuss labor conditions for media workers, contract provisions, media worker rights and obligations, social security and other employment-related issues.



Ehsanullah Aryanazai, a member of the Afghan Media Coordination Group, addressed the gathering: “Just as in other areas where the law is not enforced, the media sector too is suffering from incomplete law enforcement.”

Too often media organizations fire journalists for minor violations, he told the gathering.

Din Mohammad Mobarez Rashidi, deputy minister for information and culture, said employment laws are an important issue, adding that some media organizations have unfair, and in some cases, “oppressive” labor contracts.

Mr. Rashidi said: “Although Afghanistan has a Mass Media Law, it does not address all issues related to the press; therefore, it’s necessary to create labor regulations for media workers.”

He added: “Some media outlets want to do business. It’s their right to do business to ensure their survival, but they should not look at media from a purely commercial viewpoint.”

Jamila Mujahed, owner and chief editor of Radio Sada-e Zan, said: “We have been making efforts to explore various ways to provide resources for female journalists, to enable female journalists to work and enjoy full benefits.”

Ms. Mujahed cited maternity leave, discriminatory practices such as hiring women based on their looks instead of merit, the dispatching of female reporters to “places where they should not be sent” and male control of media organizations as some of the problems facing women in the media.

Ariana TV reporter Wakil Nayebi said he welcomed the establishment of labor laws for journalist, urging that regulations should not just remain on paper.

However, Deputy Information and Culture Minister Mr. Rashidi noted that the Mass Media Law is widely enforced and labor regulations would be similarly enforced. He added that any regulations should include enforcement mechanisms to address violations.

The issue of employment terms arose after many media workers filed complaints against their employers. Employees complained about lack of health insurance, overtime pay and other work benefits. Media workers are also concerned that their job security is dependent primarily on the discretion of media owners.

At the end of the gathering, participants were divided into working groups where they provided suggestions on employment issues.

Summarizing the viewpoints of participants, Media Watch Director Sediqullah Tauhidi said: “In many cases the contracts signed between media owners and media workers are unfair and even against human rights.”

Mr. Tauhidi added that discussing a uniform law for labor conditions will yield positive results.

The Media Coordination Group held two rounds of discussions entitled “Right to Access Information” and “Journalists Employment Terms” in Herat, Kandahar, Balkh and Nangarhar provinces. Discussion outcomes were collated and presented at the national conference in Kabul.

The Media Coordination Group mission is to assess the media situation in Afghanistan, identify the needs of journalists and media outlets, address issues arising from lack of coordination between media institutions, NGOs, government agencies, as well as capacity-building and upholding professional standards in the country in compliance with current laws and regulations.

The Media Coordination Group was established during a national media summit in 2009, which was attended by 100 representatives from across the country. The summit was supported by the Open Society of Afghanistan (OSA), which consists of 15 members.

## **Afghan Mass Media Law Analysis**

### **Article 42:**

(1) For the purpose of the appropriate regulation of mass media activities, a Mass Media Commission shall be established consisting of (7) members selected from amongst professional individuals holding higher education with experienced in the field of journalism, taking into account ethnic and gender balance.

(2) Four members of the commission shall be elected for a period of (3) years and 5 other members for a period of (2) years.

(3) Members of the commission shall not be elected for more than two terms.

(4) Commission member salaries shall be paid in accordance with the law from the budget of Ministry of Information and Culture.

(5) The commissions's work procedures and activities shall be regulated by separate bylaws.

### **Analysis**

From an international legal perspective, media regulatory bodies should be independent and not subject to the control or influence of government and business or corporate entities. If these bodies are not independent and/or influenced by government policies, it poses significant threat to freedom of expression. The independence of regulating bodies guarantees press freedom and prevents unreasonable and illegal intervention of government in media affairs.

In order to realize these principles, it is important that the media law provides for specific and clear provisions on par with internationally accepted norms in regard to human rights issues including freedom of expression and freedom of the press. One of these internationally-accepted norms is that such a body should be immune from any kind of interference and influence of the government. Therefore, its members should not be appointed by the government; rather, a mechanism should be created allowing civil society institutions, like journalism unions, to select members. Moreover, the law should guarantee members' job security so that they are immune from arbitrary termination so that they can further their objectives in a peaceful state of mind. Among the results of independence is the prevention of illegal and unnecessary pressures on them by political and commercial institutions. Thus, regulatory bodies will have the opportunity to observe a reasonable balance between national interests and freedom of expression during the course of their monitoring activities.

In order to regulate the media sector, the Afghan Mass Media Law also envisages a commission by the name of Mass Media Commission. There are some legal issues with formation and independence of this commission, per the above explanations. Article 41, paragraph 4 and clause 2 of the Mass Media Law stipulates that one of the powers of

High Media Council is to introduce the chairperson and members of the Mass Media Commission for presidential approval. Given the composition of High Media Council, which clearly reflects the influence of the government, particularly the Ministry of Information and Culture, it is possible that the selection of Mass media Commission members will be politically-motivated. Also, the chairperson of the commission could have more rightfully been selected by members, and not by presidential appointment.

According to Article 42 of the Mass Media Law, this commission must consist of 7 members, 4 members with 3-year terms and 3 members with 2-year terms. In the spirit of equality, the term for all members should have been the same because the law provides no clarification on how some members can be elected for 3 years and others for 2 years. If the legislature rationalizes that this provision is meant to prevent an organizational vacuum, it is not a compelling reason. One downside to these unequal membership terms is that commission members are vulnerable to the influence of government authorities, particularly the Information and Culture Ministry. The government could pressure members to “fall in line” or see their terms cut from 3 years. Since 4 members serve for 3 years, and commission decisions require a majority vote, the government could dictate its own policies over the commission.

According to the second paragraph of Article 42, commission members cannot be elected for more than two terms. This paragraph uses the word “elect,” not “appointed.” The word ‘elect’ means that a person should be chosen to hold a particular position. In spite of this, members of Mass Media Commission are currently appointed by the High Media Council with presidential approval. In other words, they are appointed by the President. Thus, this paragraph contradicts Article 41 of the Mass Media Law, and given Article 41, this paragraph seems redundant.

**For more information on Media Watch project please contact our team at:**

Mohammad Saber Fahim  
*Media Watch Senior reporter*  
[saber.fahim@nai.org.af](mailto:saber.fahim@nai.org.af)  
[saberf4@gmail.com](mailto:saberf4@gmail.com)

Cell# +93 (0) 700-266-727

In case you face any kind of legal problem, you may contact our legal advisor, Mr. Mohammad Qasem Rahmani  
0093 799 830 905  
Or Email at: [m.qasim@nai.org.af](mailto:m.qasim@nai.org.af)

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,*