

Nai Supporting Open Media in Afghanistan



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

# **MEDIA WATCH REPORT**

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## **Preamble:**

War and insecurity continue to take their toll on Afghanistan and recent tragic events have cast a pall of grief over the country. In this context, media workers are regularly exposed to danger. The recent death of Jafar Wafa, reporter for Radio Kala Gosh in eastern Afghanistan, is a reminder that media workers across the country are not safe.

When a government employee dies, his/her family receives death benefits and they are also entitled to the employee's pension. Media workers employed by private outlets do not enjoy the same benefits because private media often do not provide insurance with their employment contracts. A draft labor law for media workers was recently drafted by the Ministry of Information and Culture and forwarded to the Ministry of Justice for legal review. The proposed law contains provisions regarding employee death, retirement benefits and health insurance to address existing media workers' concerns.

Defamation is illegal, but, unfortunately, widespread in Afghanistan. Over the years media workers have been maligned regularly. Some individuals believe that media workers are supposed to carry out their work and they are not supposed to interact with reporters. Many times media workers arrive to invited press events only to be insulted by security officials and be turned around.

Although the Afghan press was revived 10 years ago, government officials continue to show ignorance about journalism and how the media functions. Moreover, they have consistently demonstrated that they cannot or will not work with some media to disseminate information to the public. In order to do their jobs, media workers need access to sources and information. Journalists, like civil servants, provide a vital public service.

Moreover, while reports of mistreatment and violence against media workers are widely publicized, in no case has any perpetrator faced legal action or censure. Even in cases where journalists have proven their claims, there is no disciplinary action or official reprimand. In this context of impunity, and without deterrent, abuses against media workers will continue.

Another challenge facing the media and media workers is discrimination against some press outlets. In some cases, only select media are invited or permitted to cover events, while others are banned or not invited at all. The government has shown bias in which media outlets it invites to participate in international conferences. This ignores the fact that each media outlet has a particular audience and by ignoring a particular outlet, the government denies those audiences access to information.

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

- **Reporter martyred in Laghman province**
- **Reporters insulted by security officers for Government Information and Media Center (GMIC)**
- **Select media criticize administration for not inviting them to Bonn II Conference**
- **Reporter attacked during coverage of recent terrorist attack**
- **Nai establishes Alumni Club for reporters in Kabul**
- **New newspaper joins Afghanistan's print media community**

### **Reporter martyred in Laghman province**

Jafar Wafa, who was a reporter for Nuristan's Radio Kala Gosh, died in a roadside bomb attack on Dec. 12 along with eight others as they were traveling through Alishang District in Mehtar Lam, Laghman province.

Radio Kala Gosh Director Mohebullah Wakilzada, who spoke to Media Watch by phone, described Mr. Wafa as a hardworking and brave reporter.

"Two days after his wedding, [Jafar] traveled to Mehtar Laam in Laghman with his uncle and cousin. He was martyred in a roadside explosion."



Media Watch spoke to Wafa's father, Kalisha Khan, by phone: "My son was married on Thursday. On Saturday, two days after his wedding party, he and several of our relatives wanted to return the dishes that we'd rented for the wedding party. Their truck ran into a roadside mine and my son along with three other relatives were martyred."

Mr. Wafa is survived by his parents, six sisters and his wife. Mr. Wafa was the sole son and provider for his family. Mr. Khan said he hopes the government assists his family and provides some financial compensation.

Media Watch and Nai Supporting Open Media in Afghanistan condemn the death of

eight of our countrymen and request that the Afghan National Security Forces improve security along Afghanistan's roads, cities and villages.

Mr. Wafa was 20 years old. He was married two days before the attack, which was carried out by the Taliban. He was martyred before he could contribute further to the Afghan media.

Mr. Wafa's first media job was two years ago at Radio Eleenabased in Nuristan. Four months ago, after he graduated from a Nai sponsored journalism course, he went on to work for Radio Kala Gosh.

Since 2001, 29 media workers, including Mr. Wafa, have been killed in Afghanistan.

Mr. Wafa's death is a reminder that Afghanistan continues to be a dangerous place, particularly for media workers.

Nai Supporting Open Media in Afghanistan asks that security forces remain vigilant of Taliban terrorists activities across the country, including along roadsides.

Nai organization expresses its deepest condolences to Mr. Wafa's family and the media community on his martyrdom.

### **Reporters insulted by security officers for Government Information and Media Center (GMIC)**

Reporters who tried to attend a press conference at the Government Information and Media Center (GMIC) on Nov. 28 boycotted the event after one media worker was abused by GMIC security, they said.

About 15 reporters representing various national and international media outlets condemned the mistreatment of their colleague, who they say was verbally abused. Reporters said they consider the incident a collective insult against the wider media community. In response media organizations boycotted the GMIC press conference.

Noorin TV Program Coordinator Amanullah Jawad was one of the press conference attendees. He said: "We went to the Government Information and Media Center as a group to cover the press conference and when we arrived security guards insulted us by calling us names, for example, they referred to reporters as animals."

Channel 3 cameraman Ali Reza told Media Watch: "The behavior of GMIC security guards was completely rude and in response we left."

GMIC Director Dr. Hakim AAasher denied the reporters' claims. He said security searches are necessary and he asked that reporters exercise patience during obligatory searches.

Noorin TV reporter Amanullah Jawad said he believes that the verbal abuse was premeditated: "When reporters arrived at the Government Information and Media Center, it seemed like insulting us was intentional. First, when we arrived at the door, we were made to wait for 20 minutes. When we asked security guards for information they said they they didn't know anything. Their reaction was completely unexpected, we'd never experienced this before."

Mr. AAasher denied this claim: "We did not plan or organize anything. GMIC press events are open to all domestic and foreign media without prejudice."

Media Watch and Nai Supporting Open Media in Afghanistan condemn the actions of security officials and demand that the GMIC reprimand responsible employees as a deterrent of future misbehavior and abuses.

Media Watch believes that if these types of incidents occur again, media outlets will again boycott GMIC press events. Without reporters, the government severely limits its opportunities to disseminate information to the Afghan public. If the government wants to provide information to the public, they need to take this matter seriously.

Media Watch strongly condemns any verbal abuse directed at reporters by GMIC security officials and demands that the GMIC take action. Physical searches are a necessary reality and understandable, but security guards should act professionally. Insults and abuse are unacceptable. Islam and the Afghan Constitution afford each Afghan the right to dignity. Furthermore, per Afghan criminal laws, defamation is illegal and perpetrators can be tried according to the full force of the law.

### **Select media criticize administration for not inviting them to Bonn Conference**

Some media representatives have criticized government organizers for reportedly banning them from the Bonn Conference, which was held in Germany earlier this month.

Media reps claim their outlets were banned from covering the international conference

because of critical coverage of the Afghan government.

Noor TV News Manager Khairullah Azad told Media Watch: "A reporter and cameraman for Noor TV were on a list of journalists scheduled to attend and cover the Bonn Conference, but officials from the President's Office and the Government Information and Media Center omitted Noor TV from a list of press attendees."

Mr. Azad said he believes his station was disinvited because of its corruption coverage. He claims that certain individuals in the Office of the President invite or ban media outlets from domestic and international conference based on personal biases.

Noorin TV was also not invited to the Bonn Conference. Station Director Abdul Hamed Noorzad said he believes that Noorin's omission from a list of media invitees was deliberate: "The Afghan Government always exercises discretion. They invite only media outlets that are deferential or amenable to them."

Mr. Noorzad said: "There's no doubt that the Bonn Conference had positive and negative outcomes, and by banning critical media, the Afghan government was trying to limit negative coverage."

Government Information and Media Center Director Hakim AAasher denied these claims. He said that media outlets are selected transparently and fairly.

"All media organizations are invited to international conferences on an equal and fair basis. The Afghan government follows a range of special procedures and rules in inviting reporters and media outlets to international conferences that the president will attend."

Mr. Aasher added that the invitation process for the Bonn Conference was unique.

"Media were supported and sponsored by various agencies, like the Germany Embassy, civil society representatives, Nato and others. We could only invite nine outlets for this event. We provide an opportunity to all media to participate in international conferences and other programs."

Some media directors are skeptical about Aasher's statement.

Mr. Azad, Noor TV's news manager, said: "Bonn is not only the event from which we're banned. We were not invited to government events in the Maldives, Istanbul and

other places where other media accompanied the president.”

Other media outlets have had similar complaints before about government bias towards certain media.

Media Watch condemns the Afghan government’s preferential treatment in how it selects media outlets for invitation to international conferences. This limits the Afghan public’s access to information on government activities and messages and as a result increases the gap between the state and its citizens.

### **Reporter attacked during coverage of recent terrorist attack**

Massoud Hussaini, an Agence France Press reporter, claims that he was attacked by security forces while covering a recent terrorist attack. Mr. Hussaini said that after a foreign military convoy was attacked by a suicide bomber in Kabul on October 29<sup>th</sup> 2011, he ran to the scene to report on the incident. When he arrived he was confronted by Afghan security forces and beaten.



Mr. Hossaini said that while foreign forces gave reporters access to the scene, Afghan security officials did not.

“The American military did not want Afghan security official to be at the site, but they gave reporters access. This angered Afghan security officials, which is why Kabul police chief Gen. Mohammad Ayub Salangi said in reference to reporters, ‘Who permitted these (dogs)?’”

Mr. Hussaini said the high-ranking general’s comments emboldened his officers to react violently with reporters.

“A reporter from Channel 3 TV was being harassed by police officers and when I went

to his aid a police officer attacked me. He struck my hand with his gun. The attack resulted in my shirt being torn and my hand hurt throughout the day.”

Mr. Hussaini said the incident was documented with photographs and footage that was published by some media outlets, including the state broadcaster, Radio Television Afghanistan (RTA).

When asked why he did not inform Media Watch about the incident, Mr. Hussaini said reporters were promised an investigation, which has not taken place

“The Ministry of Interior Affairs said they’d investigate the issue fairly, but because this has not happened, I am speaking to Media Watch.”

Ministry of Interior Affairs spokesman Sediq Sediqi said that an investigation was initiated. According to Mr. Sediqi, police officers prevented reporters from entering the area because of safety concerns, which reporters ignored. Police officers involved deny hitting Mr. Hussaini and the investigation into this particular allegation is still pending, he said.

Nai Executive Director Abdul Mujeeb Khalvatgar said given the significance of the incident, it is imperative that security officials allow media workers access to the scene of attacks so that news can be disseminated quickly and accurately. Information must be made available to reporters without delay by security officials, he added.

“If media workers have to wait on the police to provide information regarding an incident, they lose time and accuracy, which are vital to reporting. This results in delays to disseminating information.”

Media Watch condemns attacks on reporters by security officials and situations where government officials prevent access to reporters.

## **Nai establishes Alumni Club for reporters in Kabul**

On October 27<sup>th</sup> 2011, Nai Supporting Open Media in Afghanistan inaugurated a new club for graduates of its programs. The club's launch in Kabul was attended by USAID's Democracy and



Governance Director David Thompson, Afghan Lower House deputy speaker Ahmad Behzad and representatives of Internews, Nai and members of the media community.

Nai established the club for graduates of its training programs who are working in the media. In a speech, Nai Executive Director Abdul Mujeeb Khalvatgar said the club's purpose was to provide a space for media workers to connect and share ideas. He said the lack of an alumni club was felt by media workers. The club, he said, will assist the media community in improving the quality of their work and promote networking between media workers.

Mr. Behzad, Parliament's deputy speaker, said that the establishment of the alumni club promotes freedom of expression in Afghanistan. He said if media outlets and media workers do not work together, the government will ignore media programs and publications.

In his speech, USAID representative Mr. Thompson, said Nai's training programs were successful and he expressed his appreciation on behalf of the American people. He also stated that his agency was pleased to provide support for Nai.

Noor Agha Sharif, director of Nai's Mazar-e-Sharif office, said that while there are several journalism associations in the northern province, for various reasons many

media workers do not join them. However, there was widespread enthusiasm for an alumni club, he said.

Internews Country Director Jan MacArthur applauded Nai's performance, describing the alumni club as part of a new chapter for freedom of expression in Afghanistan.

Nai graduate Dr. Hamida Wardak, who works for an international media outlet, said the Nai alumni club is a support network for all reporters inside and outside the country.

Nai was established in 2005 with Internews assistance. Since that time, Nai has trained more than 3,000 men and women in reporting and other journalism subjects. The majority of Nai's graduates are employed by various media outlets across the country. In addition to its main offices in Kabul, Nai has regional offices in Herat, Kandahar, Nangarhar and Balkh. Nai's regional offices also provide media training.

### **New newspaper joins Afghanistan's print media community**

Wahdat newspaper, a new publication by the Islamic Unity Afghan People's Party, has published its first issue. The paper features eight pages of political, social and cultural content.

Wahdat Editor-in-Chief Dr. Latif Nazari told Media Watch that the paper's purpose is to promote democracy and state-building in Afghanistan in a free, transparent and democratic context alongside other media outlets in the country.

Mr. Nazari said that we wants to provide analysis of Afghanistan's political issues in a professional and academic manner.

"Our newspaper will be professional, meaning that although we have political positions and our newspaper represent a political party, we will strive to approach issues professionally."

Mr. Nazari said that he intends to expand content to include politics, literature and social features.

According to Mr. Nazari, Wahdat is currently printing 1,500 copies, which are circulated in Kabul. Including Wahdat, there are 16 dailies published in Kabul during the morning.

## **Afghan Mass Media Law Analysis**

Article 43: The Commission per Article (43) of this law shall have the following duties and authorities:

1. Review applications for print media and agencies set forth in Article 27 of this law, and process their registration and issuance of licenses to Ministry of Information and Culture.
2. Review applications for electronic media and refer to the Ministry of Information and Culture for approval after assigning a frequency in agreement with Ministry of Communications.
3. Monitor the activities of the mass media.
4. Review mass media complaints and resolve their legal disputes.
5. Refer mass media violations of a criminal nature to judicial institutions.
6. Provide technical consultations to mass media officials.
7. Supervise the financial, administrative and broadcasting affairs of the state Radio Television Afghanistan.
8. Scrutinize annual budget of RTA and submit to the High Media Council.
9. Submit annual report to the High Media Council.

### **Analysis**

When the new state was conceived, there were major political, economic and social transformations. The media also saw significant transformations. The former regime, which was closed, was replaced with a new and open authority. An open regime is characterized by freedom of expression and an absence of censorship. Fortunately, Afghanistan's Mass Media Law, despite some shortcoming, which were detailed in our previous analysis, features the characteristics of an open regime.

Freedom of the press and freedom of expression are enshrined per Article 34 of the Afghan Constitution. The Mass Media Law, pursuant to the relevant articles of the Constitution, clearly describe and define freedom of expression.

Article 40 and 42 of the Mass Media Law describe the Mass Media Commission and its establishment as the foundation and the basis upon which the open regime oversees media activities. The commission is described as an independent organization whose members consist of civil society and government representatives. In accordance with Article 43 of the Mass Media Law, the Mass Media Commission shall have certain duties and obligations, which are analyzed and examined below.

As set forth in Article 1 and 2 of the law, the Media Commission is defined as the primary entity charged with overseeing the registration of media outlets. The

commission is tasked with evaluating applications submitted by electronic and print media and forwarding their applications to the Ministry of Information and Culture for approval. Prior to forwarding applications to the Ministry of Information and Culture, the commission should forward electronic media requests to the Ministry of Telecommunication for the issuance of a frequency. These two articles have legal and administrative gaps insofar that they do not clearly explain the media registration process; the process should have been detailed in a sub-article. In practice, mass media outlets are confronted with various problems during the lengthy registration process, including excessive bureaucracy. For example, before the Afghanistan Frequency Organizing Delegation of the Ministry of Telecommunication provides a frequency, the application has to be referred first to Radio Television Afghanistan (RTA) and property information has to be obtained. It's vital to reduce the current lengthy process, make it more transparent and prevent unnecessary red tape and interference during registration by other entities.

According to sub-article three, the Media Commission is authorized to oversee media activities. It is worth mentioning that the word "activities" covers administrative and publishing activities. Publication includes electronic broadcasts and printing. Administrative activities includes the relationship between media outlets and reporters.

Article 4 has granted authority to the Mass Media Commission to resolve legal conflicts related to the media and adjudicate complaints. There are problems with this article. First, it's not clear what kinds of legal conflicts the commission will resolve. This contradicts Article 122 of the Afghan Constitution, which stipulates that, "no law, under any circumstance, can result in the transfer of a case from the jurisdiction of the judicial branch to another organ as determined by this Constitution." On the other hand, given the structure of this commission, can they adjudicate legal-technical issues or resolve legal conflicts in a fair and just manner? According to Afghan laws, the courts shall adjudicate and resolve conflicts. Therefore, Article 4 should have been, "adjudication of violations related to the mass media and provisions for consultative viewpoints and mediation between parties before judicial referral."

According to Article 4, referring criminal cases to the relevant judicial authorities and offices is the responsibility of the commission. This article contradicts the goals held by media advocates. Media advocates hold that no entity, including the Attorney General's Office, shall adjudicate violations related to the media, including criminal cases, unless referred to them by the Mass Media Commission. Those who drafted the Mass Media Law did not consider this issues as by media advocates, which indeed guarantees freedom of expression and media. According to sub-article 2 of Article 7 of

discovery and investigation of crimes, the investigation and applicability of the law rests with the Attorney General's Office, as mentioned in Article 4 of the Mass Media Law. Complaints held by social organizations, organizations, offices of individuals shall be by means of legal suit including: 1) the complaint of the victim, i.e. written or verbal information by the person subject to offense; 2) confession by the perpetrator; 3) discovery of evidence of crime by investigative authorities, criminal authorities or prosecutors shall be considered criminal cases. For example, if someone is slandered, he/she can directly contact the Media Commission or the prosecutor's office with no legal obstacle.

Given the importance of this issue, and in defense of media rights, this article should have been written in such a way that the primary entity identified as adjudicating criminal cases involving the media should have been the Media Commission and other sources of legal review should have been null and void. It would have been better written as "no media outlet can be subject to prosecution unless the victim has submitted a written complaint to the Media Commission or the commission itself identifies a criminal act by the media."

According to Article 6, the commission can provide technical consultation to media outlets. Given that Afghan media are still young, the Media Commission should provide technical support to the media to promote self-sustainability and quality so that the media operate per the standards the norms of freedom of expression.

According to Article 7, the Media Commission is authorized to oversee the financial, administrative and broadcasting affairs of RTA. However, RTA does not observe the principles of neutrality and fairness. RTA is under government influence, in particular the Ministry of Information and Culture. As per this article, it is one of the Media Commission's responsibilities that where the principles of neutrality and fairness are violated, RTA TV shall be obliged to act professionally and in a standard manner and be protected from the influence of the government officials.

If the articles of the Mass Media Law are examined, it is evident that there are problems with the details of the commission's duties and obligations and with references to laws and regulations. There are no clear mechanisms for the media registration process, and until now, the press is obligated to follow traditional procedures when obtaining their operating license. There is another significant loophole in the law with respect to the description of the Media Commission's authority in the case of criminal violations involving the media. As a result, there have been reckless prosecutions of media

workers and outlets by judicial authorities. As a result, the provisions of the Mass Media Law should be revised and clarified.

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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:***

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