

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:

After the passage of a whole decade, Afghani journalists still face a variety of problems and challenges. According to experts, not only in many cases the actions of the government regarding protection of freedom of expression are less than adequate, but also the government itself commits violence against journalists every now and again.

Although, the government frequently refers to freedom of expression as one of its remarkable achievements, it is not aware that freedom of expression is not limited to allowing citizens to express themselves; rather, when we talk about protection of freedom of expression, we reasonably expect the government to make more efforts to provide a better economical, political and legal climate, and more importantly, respect the media and protect it from attacks by government officials and others.

The survey on violence against journalists and media shows that government is the worst offender in committing violence against journalists. Despite the constant pressures exerted by journalism advocacy organizations, the government has not yet brought any significant change in its approach and is always trying to grasp opportunities to take this right from citizens and the media and ultimately turn media outlets into government tribune. This means that the government cannot tolerate an open media that pinpoints its failures and criticizes its mismanagement.

It is disturbing that instead of supporting media development and providing a better economical, political and legal situation, our reports repeatedly touch upon government violence against journalists and are mainly composed of cases of violence against journalists. Unfortunately, no positive change is seen in the behavior of security organs towards journalists, and the leadership of these organs takes no action to bring about improvements in this area.

However, to be fair, we should also mention that media outlets must take responsibility and work towards standardization of their activities, never attempt to abuse freedom of expression and should consider politeness so that they can emerge as ethical media worthy of respect and make their way into the hearts of the public.

Stories that Media Watch investigated in March 2011

- 1. The person arrested on charges of terrorist attacks, is not a journalist**
- 2. Journalist beaten by traffic police on New Year's day**
- 3. Unidentified individuals threaten journalist**
- 4. A number of journalists of Kandahar province complain from Benawa news website**
- 5. Badghis information and culture department calls on a community radio to go off air**
- 6. RTA staff beaten in Kabul**
- 7. Bakhtar news agency accuses Sada-e-Afghan news agency of plagiarism**
- 8. Afghanistan Today Weekly joins Herat print media family**
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The person arrested on charges of terrorist attacks is not a journalist

On March 27th, National Directorate of Security (NDS) reported the arrest of a 7-man group attempting to carry out suicide attacks in Afghanistan. Lotfullah Mashal, the spokesman of NDS, was of the opinion that one of the arrested persons by the name of Irfanullah Sapand was a terrorist, apparently working as a journalist in Nangarhar Province.

But journalists and journalist unions of Nangarhar province say they do not know any journalist by the name of Irfanullah working in the province. They condemn the statements of the NDS spokesman as an insult to journalists of Nangarhar province.

Laal Padsha Azmoon, chairman of the Afghan independent journalists and writers association in eastern provinces, said to Media Watch: “After hearing this news, all journalists of Nangarhar came together in Jalalabad city and asked each other about the person called a journalist by NDS, but none of us knew a person by the name of Irfanullah Sapand working as a journalist in the eastern zone. Also, no media outlet has so far confirmed having a staff member by that name.”

Lal Padshah Azmoon considered such statements by NDS spokesman as an attack on journalists and media, and added: “Before giving out this news, the NDS officials should have contacted media, information and culture department or other government authorities of Nangarhar province to verify if the person arrested on charges of terrorist links was really a journalist.”

NDS has issued a press release that reads: “Irfanullah Sapand who was involved in terrorist activities under journalist cover, is an indigenous resident of Nangarhar who was living in Shamshatoo camp of Pakistan prior to his arrest.”

NDS has provided media with the footage showing the arrested suspects. In this footage, the person called journalist by NDS is also seen confessing his terrorist activities.

Media Watch calls upon all spokespersons of the government of Afghanistan working for ministries or other organs in Kabul or provinces not to announce as journalist an arrested person who claims to be a journalist unless due investigation and inquiry is carried out in this regard. Such false identification damages the reputation of journalists and the public trust in journalists. Should the NDS have purposely given out this news as a tool to put pressure on media, in Media Watch’s opinion such an action is inconsistent with all laws and internationally accepted norms and not only damages the reputation of journalists but also the reputation of the NDS itself.

Video journalist beaten by two traffic police officers

Sayed Jaan Sabawoon, in charge of the video clips of Azadi radio webpage, was insulted and then beaten by traffic police officers in Karte Sakhi area of Kabul city on March 21st as he was trying to videotape the event.

Sayed Jaan Sabawoon gave the following account of this incident: “As I arrived in the celebration area of Nawroz ceremony with the camera in my hand and my PRESS ID hanging on my chest, I was stopped by police. I told them that I was a journalist but they responded in a bold and harsh way that I was not allowed to get in. I insisted that I was a journalist and that I had to produce my report. While I was talking, two traffic police officers started beating me from behind during which time my camera fell down on the ground and I was thrown into the water canal beside the road. While I was lying in the canal injured, I heard police shouting: break his camera!”

Sabawoon added: “Later, the police put me inside a police vehicle and put pressure on me to delete the footage I had taken during the clash.”

Sabawoon says that he then went to the police commander and explained the incident but the police commander also did not pay attention to him and told him to “get lost”. After that, the representatives of

Azadi radio contacted the press office of Ministry of Interior and explained the situation to Zmarai Bashari, MoI spokesman, but after ten days from the incident now, no action has been taken by them.

A Media Watch reporter tried to get the view of Zmarai Bashari on this, but he could not catch the spokesman despite his immense efforts. However, General Zaher Faqiri, head of criminal investigation branch of Kabul police command said: “We just had a report on a verbal argument between a journalist and traffic police which was resolved with mediation of security forces. No one has filed any complaint with us so that we can launch the investigation.”

The head of criminal investigation branch of Kabul police command asserts that police forces have received full training on how to treat citizens. However, the sporadic incidents that still take place may be attributed to the three decades of war that has profoundly impacted the behavior of some members of society.

This is not the first time a journalist has been beaten by traffic police. Two months ago, a correspondent of Aina TV was also beaten by a traffic police about which incident no inquiry has been carried out to date.

Media Watch condemns the insulting and beating of journalists in the strongest possible terms and calls on the law enforcement agencies to identify and punish, in accordance with the provisions of law, the persons who use violence against journalists.

Lack of prosecution and punishment in Afghanistan has encouraged individuals, including law enforcement officeres, to abuse their power and cause chaos in the country.

Killid magazine columnist threatened

Sohaila Wedah Khamosh, Killid magazine columnist, claims to have been threatened several times through phone calls by Joma Khan - a self proclaimed deputy head of criminal investigation branch of Kabul police command.

Ms. Wedah says: “I was working on an investigative report on women prisoners and the performance of police, prosecutors and courts when I accidentally met a woman in the Afghan Independent Human Rights Commission. She had a legal case and during her conversation with me she told me that she was threatened by a person called Joma Khan - a self proclaimed deputy head of criminal investigation branch of Kabul police command.”

Ms. Wedah added: “I took the phone number of Joma Khan from that lady to talk to the intimidator as I was under the impression that this person was newly appointed as a deputy head of criminal investigation branch of Kabul police command. But after the first phone call, the person threatened me with a harsh tone and said: Where is that woman you are talking about? And you had better ignore this matter which is a case of family honor; otherwise, you will put your life in danger.”

According to Ms. Sohaila Wedah, she refused to ignore the case as it was a case of violence against a woman and thus she reflected it in media. After that, she received several threatening phone calls.

After being threatened repeatedly, Ms. Sohaila shared the matter with General Zaher Faqiri, head of criminal investigation branch of Kabul police command but Mr. Faqiri said he had no deputy by that name.

Media Watch wanted to find out what actions the criminal investigation branch had taken so far. General Mohammad Zaher Faqiri told Media Watch: “Ms. Sohaila notified us of the threats she had received, but



so far no police station has provided information to us so that we can launch investigation in this regard on the base of that information.”

Ms.Sohaila says that over the last ten years, due to lack of follow up with journalists’ cases, a large number of journalists have either been killed after receiving such threats or were obliged to quit the journalism profession. She expressed concerns that she may also face the same destiny should her case not be taken seriously.

Media Watch calls on government officials to ensure life and professional safety of the journalists. When a journalist reports threats to his/her life to law enforcement agencies, the law enforcement officials have to make all efforts to repulse the threat because firstly the government is obliged to ensure safety of the citizens, and secondly this action increases public trust in government especially in the law enforcement officials.

Regarding this particular case, Media Watch requests the Kabul police command to track the identity of the mentioned person in coordination with Ministry of Communication, and the relevant telecommunication companies and assure the wider public that when a person brings a complaint to law enforcement agencies, their complaint is taken seriously and their rights are protected.

A number of journalists and management of Kandahar press club complain from Benawa website
Management of Kandahar press club, along with the journalists of that province, sent a formal letter addressed to journalism unions, journalism advocacy organizations and Afghan Ministry of Information and Culture criticizing the content of Benawa web page as affronting and defamatory with no supportive documents.

They say that recently the Benawa web page has violated ethical principles in its writings and is publishing material beyond moral values. They write: “Unfortunately, Benawa web page is recently publishing articles in which persons and officials are insulted and abusive language is used against them.”

Kandahar press club is of the opinion that such writings are a heavy blow to freedom of expression and democracy in Afghanistan.

Noorullah Noory, secretary of Kandahar press club, said to Media Watch: “The entire content of Benawa web page originates in the personal bias and prejudice of the editor-in-chief of the website which was why Ministry of Information and Culture imposed restrictions on this website some time back which were then lifted after a while.”

Noorullah Noory justifies as below the reaction of Kandahar press club against the content of Benawa website: “The editorial policy of Benawa website is not correct. Such activities undoubtedly undermine the image and reputation of the entire media community. We request those friends who have committed this mistake to avoid repeating such mistakes in the future so that the image of freedom of expression, which we have established with a lot of sacrifices and troubles, will not be obscured.”

But, chief editor of Benawa web page Khalid Hadi, who is living in the USA, told Media Watch in a phone call that what the Benawa web page publishes the remarks of the public and not the editorial policy of the website.

Zarialai Nawabi, spokesman of Ministry of Information and Culture said that they received the complaint letter of the journalists and press club of Kandahar province and forwarded it to the Media Violations and Complaints Assessment Commission for further action.

The Media Violations and Complaints Assessment Commission refused to provide details about the complaint and the spokesman of the Ministry of Information and Culture was the sole government source to show reaction. Although the Ministry has forwarded the letter to the Media Violations and

Complaints Assessment Commission, the commission requires the press club to send their complaint letter solely addressed to the commission.

It is worth mentioning that some time back Benawa website was blocked in Afghanistan due to publishing the false news on the death of Marshal Mohammad Qaseem Fahim, Afghan first vice president, and as a redress to the complaint of the office of the first vice president, but later on the restriction was lifted.

Media Watch of Nai Supporting Open Media in Afghanistan considers that it is inconsistent with Afghan media law and the constitution to demonstrate any kind of humiliation, insult and defamation of natural or legal persons by any real or virtual media, or against the professional and ethical values of the sacred profession of journalism.

Media Watch always stands behind Afghan media and journalists along the lines of legitimization of journalists and their professional work and hence calls upon all open Afghan media to avoid insulting or defaming individuals. Such acts destroy the image of media in public and serve as a pretext for enemies of freedom of expression to take actions against it.

Furthermore, Media Watch believes that media outlets operating outside Afghanistan should not violate Afghan constitution and media law simply because they are not operating inside Afghanistan. Violation of law is, in any circumstances, considered a crime.

Radio Hanzala continues to go on air despite the instruction of information and culture department to the radio station to go off air for two days.

Sayed Abdurrahim Rahmani, manager of Hanzala radio station in Badghis province says that on March 11th, in a live radio coverage, a presenter was talking about democracy and freedom of expression. During the program the presenter said: "In Afghanistan, freedom of expression has flourished so much that people even can talk about high ranking dignitaries including the president."

According to the manager of Hanzala radio station, the presenter of the program who is also the deputy manager of the radio station was subsequently summoned by Sayed Aqa Irfaq, head of information and culture department of Badghis province where he instructed the deputy manager to shut down the radio station for two days.

But, Mr. Irfaq says Radio Hanzala is the only community radio in Badghis province; and due to lack of professional staff, it commits media and literary violations every now and then.

Mr. Irfaq added: "The last violation of this radio station was that of insult to the personality of President Hamid Karzai and by closing their radio station for two days we wanted to imply to them that they had committed a violation and that they should pay extra caution to their work in the future."

But Sayed Rahim Rahmani dismisses the claim of the head of information and culture department of Badghis province that President Hamid Karzai was insulted. He says a listener gave a phone call to the studio of the radio and started using abusive language against the presenter of the show who had said that freedom of expression is so deeply grounded in Afghanistan that people even use abusive language against the President.

But the manager of Radio Hanzala did not follow the instruction of the head of the Information and Culture Department of Badghis regarding closing down the radio station for two days; rather, he was able to convince the head of Badghis information and culture department to take his instruction back and allow the radio to continue on air.

Based on the prevailing laws of the country, no entity is authorized to give orders for closure of a media outlet except for the relevant organs provided for in the law. Even these authorized organs can only issue

the order of closure of a media outlet after going through the legal process and obtaining the consent of an authoritative court.

One of the articles of Afghan mass media law stipulates that when a media outlet commits a violation, the matter should be referred to the Media Violations and Complaints Assessment Commission, rather than every individual or organization attempting to address the issue personally or shutting down the media outlet in question.

Media Watch considers the order issued by Badghis information and culture department on shutting down Hanzala radio station illegal and calls upon officials of Badghis province to observe the law while dealing with media and journalists i.e. address media violations through the channels provided for in the Afghan mass media law.

Media outlets are also obliged to adjust their activities to the requirements set out by law and should refrain from insulting or dishonoring of persons so that they do not give government entities a cause to interfere and they preserve their prestige in public eyes.

Violence against RTA staff .

A non-government newspaper has reported that the security guard of Radio Television Afghanistan, (RTA) which is run by the Ministry of Information and Culture, has affronted and physically assaulted some RTA staff members.

According to the newspaper, the incident took place on March 15th at 8:30 a.m. when the staff members of RTA were entering the RTA premises. The security guard physically assaulted a staff member, Ahmad Maseeh, apparently for not displaying his ID.

According to the eyewitnesses, other staff members of RTA, Massoud, head of correspondence, Saleh Mohammad, and head of procurement department Mohammad Khalil, who objected to the physical assault directed at Ahmad Maseeh, were also humiliated and beaten by the security guard under the command of Sharafuddin who is also known by his nick name “General”.

Deputy Director of RTA Jalal Mahmood regarded the issue as a misunderstanding between a staff member and security guard of RTA who are responsible for body searches at the entrance.

According to him, the report published in the newspaper was contrary to the actual incident.

The deputy director of RTA said: “The issue was resolved in the very first hour and the security guard involved in the issue was transferred from RTA.”

According to Jalal Mahmood, the body search procedure has also been in place in the past but it has become stricter recently due to potential threats.

He added that all RTA staff members are required to have their ID on them while entering RTA.

Media Watch condemns the behavior of the security guard with the personnel of RTA and condemns it as an illegal act.

Affronting, insulting and beating are actions considered a crime by Afghan law. Therefore, those who commit these acts, should be directly introduced to judicial and law enforcement agencies for prosecution. Any compromise or unlawful negotiation in such cases will further encourage violation of law and lack of fear from legal prosecution.

Bakhtar news agency accuses Sada-e-Afghan news agency of plagiarism.

Nabi Paktin, head of Bakhtar News Agency – a government-run news agency, claims that the news and reports of Bakhtar News Agency are stolen by Sada-e-Afghan News Agency (a non-government news agency), and are published in its website without citing the source.

According to the head of Bakhtar News Agency, by doing so the Sada-e-Afghan News Agency has violated the journalistic code of ethics.

However, Sayed Essa Hussaini Mazari, director of Sada-e-Afghan News Agency dismisses as baseless the claim by Bakhtar News Agency director and adds that the officials of Bakhtar News Agency are welcome to present evidence in this regard if they have any so that Sada-e-Afghan News Agency formally apologizes if their claim is true.

Hussaini Mazari added: “Sada-e-Afghan News Agency runs based on the policy of publishing primarily the news and reports prepared by journalists of this agency; however, in cases that news or reports are taken from other sources, the name of the source is clearly mentioned.”

Nevertheless, the head of Bakhtar News Agency claims that Sada-e-Afghan News Agency has copied news from Bakhtar News Agency without mentioning its source.

Media Watch considers plagiarism, copying of news and other materials of one media by another as an illegal action that is referred to as a crime in Afghan law. Moreover, Media Watch believes that the problem is further exacerbated by lack of the legislation on copyright. Therefore, the legislative bodies are encouraged to draft the law on copyright to discharge their responsibility in this juncture of time on one hand, and take an innovative and effective step on the other.

Afghanistan Today Weekly joins Herat print media family.

On March 12th, a number of journalists, officials of the Ministry of Information and Culture and representatives of media and civil society came together in Herat province to celebrate the launch of “Afghanistan Today” weekly.

Afghanistan Today officially became operative in Herat province under the proprietorship of Ahmad Sultan Karimi and is supported by Mediatech.

In the inaugural ceremony, Abdul Basir Tahseen addressed the audience on behalf of Mediatech.

The representative of Mediatech said: “The Afghanistan Today weekly emerges from western Afghanistan with the support from Mediatech and will soon become a nationwide publication which will be available all over the country.”

Editor-in-Chief of Afghanistan Today weekly, Mohaiuddin Noorzai, said: “This weekly will be operating within the framework established by current Afghan laws and will be complying with modern journalism principles in its work.”

He added: “Afghanistan Today will strive to ensure dissemination of information and present stories on life and peace, development, and will foster the spirit of mutual acceptance.”

Media Watch welcomes the establishment of Afghanistan Today weekly and encourages its personnel not to spare any efforts so that the newspaper is rooted deep in society. Experience shows that launching a newspaper in Afghanistan is not a big deal, but that the challenges lie in keeping the newspaper running. Media Watch wishes that this newspaper will be able to attract plenty of readers and be able to keep running in the long term.

Media Law Analysis

Article 35:

In case a proprietor finds the decision of the Ministry of Information and Culture regarding non-registration or issuance of license contrary to the provisions of law, he may refer to the relevant commission. If not satisfied, the proprietor may file a lawsuit before court.

Analysis:

In the current era known as the age of revolution of technology and communication, media plays a critical role in shaping the public mentality, serving as a bridge between public and state, democratization of governments, and reflection of realities. Media are regarded as the fourth pillar in open and democratic governments.

Today, pluralistic, open and critical media is considered as one of the components of modern democracy. In order for a government to be recognized as democratic, it should ensure that all political, economical and legal factors required for such media are in place, and also should try to tackle any challenges facing the media.

From a legal point of view, in order to pave the way for the establishment of such media, it is necessary that the Constitution and mass media law recognize certain fundamental rights of media so that it can start and continue its life as an independent legal entity. Also the government should be honest towards these rights and formulate appropriate procedures to ensure these rights are protected. One of these rights, among others, is the right to refer to court in case of non-registration or issuance of license.

Pursuant to article 34 of the Afghan constitution, the government is charged with the responsibility to ensure freedom of expression for Afghan citizens, provide legal means for preservation of this right, remove the obstacles ahead of practicing of this right that have remained as a heritage of the past despotic governments by abrogating or amending the laws, and finally appoint such persons in media related government institutions who believe in freedom of expression and are capable of discharging the government responsibility regarding protection of free speech.

The above article (article 35) recognizes the right to refer to court. This right has a vital importance while establishing a media outlet. In well established democracies, only independent courts that are by no means affiliated to the executive power, in consideration of the circumstances envisaged by law, can cease the fundamental rights of citizens. Establishment of media outlets is one of the fundamental rights of citizens, with regards to which the executive power is bound to ensure this right of the citizens according to the prevailing laws, and they by no means have the authority to cease this right.

The right to refer to courts, as a potent legal tool provided for in mass media law, prevents abuse of power by government entities underscoring that by approving the registration method, the Ministry of information and culture only has the competence to register media outlets in accordance with the provisions of law. It also implies that Ministry of Information and Culture is not the sole source of issuance of license, as in case of denial to issue a license, the applicant can refer to the mass media commission or the courts and thus appeal the decision of the mentioned Ministry.

To conclude, it is worth mentioning that what can be pointed out as a legal gap in this article is that it provides no certain period for registration in or issuance of license by the Ministry of Information and Culture which on its own is a legal gap which can pave the way for abuse of power and neglect of duty by government officials. Also, it confuses the applicant. However, provision of law to determine the time for issuance of license and registration would oblige the Ministry of Information and Culture to comply with the provision and avoid delay in carrying out its respective duties appropriately. It is because of the existence of this legal gap that proprietors face numerous problems and waste a lot of time while obtaining a license.

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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,*