

Marvin G Weinbaum

## Toward a More Effective Parliament?

### *The UNDP/SEAL Project*

An elected parliament was expected to be one of the cornerstones in rebuilding an Afghan state committed to achieving representative democracy. The bicameral body established by the 2004 constitution was intended to contribute to a system of checks and balances in a presidential form of government designed for a strong executive. While providing executive oversight, the parliament would also give the Afghan people a direct channel to national policy makers and provide for open discussion of public issues. An accountable and transparent body was expected to build respect for the institution, encourage national solidarity and engender popular confidence in a central government.

Determined to help equip the new parliament for its constitutional role, the UN Development Programme (UNDP) sponsored a project aimed at establishing a fully operational and effective parliament, able to serve as a representative assembly befitting a modern constitutional democracy. Toward that end, and with donor countries and other partners, the Support Effective Afghan Legislature (SEAL) project was launched in February 2005.<sup>1</sup> It aimed to build the capacities of members of parliament and their staffs for their legislative roles through a variety of programmes providing both houses the necessary legal, technical, informational and physical infrastructure.

In 2008 a second phase of the SEAL project was undertaken in an effort to build on its technical and material contributions as well as experiences gained in working with the parliament's members over three years. This phase was designed to take the project into new areas, including assistance in drafting laws and strengthening links between the parliament's members and constituents. It was also intended to improve the body's capacity for oversight of the country's executive branch through legislative hearings and support for standing committees.<sup>2</sup> In seeking to influence parliamentary cultural and behaviour, SEAL II's programmes were potentially more sensitive as they addressed legislators' conduct and cooperation, the needs of women members and relations between the parliament and the president.

### 1. CHALLENGES

The parliament that was elected in August 2005 and that first convened in December 2005 contained a highly disparate membership. As many as 80 per cent of the 249-member Lower House (Wolesi Jirga) consisted of former Mujahedin fighters, warlords and local power brokers. The rest included intellectuals, ex-communists and women, most of who were elected by virtue of a reserve quota of

---

<sup>1</sup> Partners include USAID, the State University of New York, the UN Fund for Women and the National Democratic Institute.

---

<sup>2</sup> See 'Support for an Effective Afghan Legislature (SEAL II)', Annual Project Report 2008, United Nations Development Programme, 5.

approximately 25 per cent of the seats.<sup>3</sup> Very few were acquainted with legislative procedures or could be expected to appreciate their parliamentary role. Many had little or no education.

The unsavoury and traditionalist reputations of many of those elected posed a challenge to creating the kind of parliament envisioned by its international supporters. Personal and partisan animosities were thought likely to cause difficulties, as were ethnic divisions among members. The participation of women in the legislature was expected to be unacceptable to many male legislators.

In getting members to work together there was the challenge of organising an undisciplined membership. Those elected to the more important Lower House had been discouraged from contesting the election under the label of political parties. The choice of the single non-transferable voting system (SNTV), making the great number of legislators answerable to only small numbers of voters, promised a further obstacle in building legislative majorities in the parliament.

Seeking to overcome the effects of an atomised membership, the Lower House's rules allowed for recognition of legislative political groupings of at least 21 members provided they were not organised by ethnicity, language, region, sect or gender. Once formed, these groups were expected to compensate for the absence of authorised parties. Their leaders would set the legislative agenda, mobilise members and ensure quorums. But it soon became apparent that in a body of mostly independently elected and independently minded legislators, it would be difficult for members to form and maintain political affinity groups.

If less directly, the challenge for SEAL was also to assist members in fulfilling the expectations of constituents. Voters would look to those they elected to attract resources and satisfy grievances, including those against corrupt local officials. Many people saw in a strong parliament and president an opportunity to strip warlords and other local notables in the regions of their grip on power. But the project's success was always also likely to be directly impacted by the country's deteriorating security environment. Aside from the challenge for members to travel safely to their provincial constituencies, they would face personal dangers in Kabul and possible disruption of their proceedings.

<sup>3</sup> 'Afghan Parliament: Expectations, Challenges, and Opportunities', Institute for Policy Studies (IPS), Islamabad, 20 July 2010, 12.

## 2. PERFORMANCE

The verdict on the parliament's performance and SEAL's contribution is a mixed one. By some measures, legislators have performed reasonably well. Most members took their legislative roles seriously. The parliament has managed to approve a number of important executive-initiated pieces of legislation and has not shied away from asserting executive oversight. The parliament particularly relishes its vetting of cabinet members. It regularly provides a forum for free and lively debates, even if they sometimes lack relevance to the main issues facing the country. Many of the members appear to have at least a basic understanding of the role of media and how to use it to communicate with their constituents and the public.

Members have not been as confrontational as many had feared and frequently vote across factional divides. Even when debating highly contentious issues, they usually adhere to the procedural rules and refrain from personal attacks. Understanding and respect for women members has improved, if only slowly. Although splits along tribal, ethnic and sectarian lines are visible, they have not hardened into conflicting parliamentary blocs.<sup>4</sup> In general, members have found it difficult to join together to form stable parliamentary groups because of diverging, cross cutting interests and a lack of trust between members and leaders. Parliamentary leaders are often seen as failing to consult and using their positions for personal benefit.<sup>5</sup>

The most visible parliamentary division exists over members' willingness to support the government. The Lower House roughly breaks into three blocs: those who vote with the executive on a fairly regular basis, a roughly similar number who usually stand in opposition to the president, and another as large bloc whose loyalties are regularly shifting. But even among those who generally back the executive, their support is far from assured.<sup>6</sup> As the government became increasingly unpopular and as the 2010 parliamentary elections approached, the tendency of members to distance themselves from the president became increasingly evident.

In general, legislators are dissatisfied with their achievements over five years. Many members of the popularly-elected Lower House feel frustrated

<sup>4</sup> 'Afghan Parliament' (see FN3).

<sup>5</sup> 'Support for an Effective Afghan Legislature (SEAL II)', 9 (see FN2).

<sup>6</sup> M. Hassan Wafaey with Anna Larson, 'The Wolesi Jirga in 2010', Afghanistan Research and Evaluation Unit, Parliamentary Election Brief 2, Kabul, June 2010.

that they have not done enough to meet the expectations of supporters. They complain of their lack of personal and institutional capacity to monitor government offices, particularly those whose leadership is not voted on by parliament, such as the Independent Directorate for Local Government, the High Office of Oversight and Anticorruption, and the National Control and Audit Office. Legislators have blamed the president and his representatives for disrespecting and bullying the parliament. They cite lack of consultation by the executive, criticise the president's decrees and share the public's unhappiness with the implementation of laws. Legislators also frequently use the parliament to express popular discontent with an international presence perceived as intrusive. In an increasingly unfriendly political atmosphere, the motives of SEAL advisors are sometimes questioned.

### 3. CONCLUSION

SEAL can, without challenge, take credit for providing the infrastructure and technical support that has enabled the parliament to operate with reasonable efficiency and transparency. It has also ensured a better managed and informed legislative body than there would have been otherwise. Legislators seem in particular to have acquired a good understanding of the use of media. But SEAL has met with far less success in contributing to an effective lawmaking body or promoting more accountable members. Especially in the Lower House, it has little to show for programmes intended to instruct committees in drafting bills or conducting hearings with government officials. While encouraging the formation of legislative political groups, its programmes offer little support. Despite considerable effort, SEAL has failed to get the parliament to pass a satisfactory

code of conduct or take greater responsibility for assembling legislative quorums.

Raising sufficient contributions from countries willing to support the legislative project has been a constant challenge for SEAL. A number of donor countries, like France, have dropped their support over the years or failed to meet their pledges, resulting in funding gaps that have adversely affected the scope of SEAL's programmes. The coordination of donors and others who are partnering in supporting the parliament has been another constant problem. It has resulted in duplication, overlapping and improper use of resources.<sup>7</sup> SEAL has also witnessed a rapid turnover of the parliamentary staff it had trained, mainly as a consequence of poor government salaries.

SEAL's emphasis on the professionalisation and streamlining of the legislative process has least succeeded where it has confronted the realities of Afghan politics and the parliament's political culture. The parliament is surely a stronger institution for having been the recipient of the SEAL programmes. But many programmes remain removed from the central concerns and motivations of the average legislator. Narrowing that gap and better realising the kind of effective parliament envisioned by SEAL and its partners, as well as the government's own Afghanistan National Development Strategy (ANDS), requires the fuller development of political parties and further revisions of the electoral law.<sup>8</sup> Only with these reforms can the parliament hope to manage at the same time its own affairs, be assertive without being confrontational with the country's executive and also be more accountable to the voters. Full assessment of the SEAL project and the parliament's future hinges, of course, on whether Afghanistan's constitutional democracy survives.

<sup>7</sup> 'Support for an Effective Afghan Legislature (SEAL II)', 19 (see FN2).

<sup>8</sup> See 'Afghanistan's New Legislature: Making Democracy Work', International Crisis Group, Asia Report No. 116, 15 May 2006, for additional recommendations.

## ABOUT THE AUTHOR: MARVIN G WEINBAUM

Marvin G Weinbaum is a scholar-in-residence at the Middle East Institute in Washington DC and professor emeritus at the University of Illinois. He formerly served as the Afghanistan and Pakistan analyst for the US Department of State's Bureau of Intelligence and Research.

## ABOUT THIS CHAPTER

This chapter is part of a larger volume called *Snapshots of an Intervention: The Unlearned Lessons of Afghanistan's Decade of Assistance (2001–2011)*, edited by Martine van Bijlert and Sari Kouvo. The volume is a collection of 26 short case studies by analysts and practitioners, each with long histories in the country, who were closely involved in the programmes they describe. The contributions present rare and detailed insights into the complexity of the intervention and, in many cases, the widely shared failure to learn necessary lessons and to adapt to realities as they were encountered.

The chapters and full document can be found on the AAN website ([www.aan-afghanistan.org](http://www.aan-afghanistan.org)) under publications.

## ABOUT THE AFGHANISTAN ANALYSTS NETWORK (AAN)

The Afghanistan Analysts Network (AAN) is a non-profit, independent policy research organisation. It aims to bring together the knowledge and experience of a large number of experts to inform policy and increase the understanding of Afghan realities.

The institutional structure of AAN includes a core team of analysts and a network of regular contributors with expertise in the fields of Afghan politics, governance, rule of law and security. AAN will publish regular in-depth thematic reports, policy briefings and comments.

The main channel for dissemination of the reports is the AAN web site. For further information, please visit [www.aan-afghanistan.org](http://www.aan-afghanistan.org).

© Afghanistan Analysts Network 2012.

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without full attribution.