

## **Q & A on Afghanistan's Loya Jirga Process**

### **What is a loya jirga?**

“Loya jirga” is a Pashto phrase meaning “grand council.” For centuries, leaders in Afghanistan have convened loya jirgas to choose new kings, adopt constitutions, and decide important political matters and disputes. Loya jirgas have traditionally been made up of tribal leaders and other elders – almost all men – sent to Kabul by local *shuras* (village-level councils). This quasi-democratic process has been relatively representative of Afghanistan’s population: in the past loya jirgas have involved representatives from almost all of Afghanistan’s major ethnic and religious groups: Pashtun, Tajik, Uzbek, Hazara, Turkmen, Baluch, Farsiwan, and Nuristani; as well as Sunni, Shi’a, Hindu, and Sikh. Women, however, have been largely absent from loya jirgas, except for those convened in 1964 and 1977. In 1964, four women were appointed to the advisory constitutional drafting committee, and in 1977 women constituted 15 percent of the members of the loya jirga. Even then, participation was limited to educated, urban women.

### **How was the current loya jirga set up?**

The current loya jirga process was set in motion by the Bonn Agreement of December 5, 2001, which created an interim administration in Afghanistan and a timetable for setting up a future, elected government. The agreement said that within six months of the assumption of office by the Interim Administration (December 22, 2001), an emergency loya jirga would be convened to appoint a transitional administration, which would in turn lead Afghanistan for up to two years, until a “fully representative government can be elected through free and fair elections.”

A Special Independent Commission for the Convening of the Loya Jirga (“loya jirga commission”), required by the Bonn Agreement, was appointed in January. Its task was to establish rules and procedures for the loya jirga, define a process for the selection of delegates, and ensure the adequate representation of women, minorities, scholars, and representatives of civil society groups. The commission released a set of rules and procedures in late March. An information dissemination campaign has commenced, and the selection process began in mid-April. The loya jirga itself is set to meet in early June.

### **How will loya jirga delegates be chosen?**

The selection of the delegates for the loya jirga began on April 15. There will be several stages to the process. First, at the district and municipal level, traditional leadership councils (*shuras*) will meet to pick electors – persons who will at a later stage cast ballots for loya jirga delegates. Each district or municipality will have to choose a predetermined number of electors, based on the size of its population. The names of those chosen will then be delivered by regional observer teams<sup>1</sup> to Regional Observation Centers, of which there are eight around the country. This process should be completed by May 20th.

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<sup>1</sup> Each of the 350 “electoral constituencies” defined under the procedures for the Loya Jirga (rural districts, wards, municipalities, etc.) will have a “Constituency Observation Team,” responsible for recording the names of electors chosen by the local shuras in the first stage and delivering these names to the relevant Regional Observation Centers

Once the submitted list of electors is checked and certified by the Regional Observation Centers (there is a complaint process at this stage, which can take up to five days to finish), the electors will then travel to the regional centers and cast ballots, to choose from amongst themselves a smaller number of loya jirga delegates – according to allotted numbers assigned to each district. Each Regional Observation Center will monitor these elections, and certify the results. Where circumstances do not allow for free and fair elections, the centers have the power to change the venue of the election; where there is no possibility of holding an election, the centers have the power to appoint delegates.

As elections are underway, the loya jirga commission will meet to discuss the ongoing elections and to select delegates to fill seats allotted for civil society leaders, women, university faculty, religious scholars, trade groups, and other professionals. There will be 399 of these appointed delegates, out of a total of 1450 seats.

All of the above processes are to be complete by June 5, after which the elected and appointed delegates will then travel to Kabul to take part in the loya jirga, which convenes on June 10. The loya jirga, meeting June 10-16, is charged with choosing a new government and its executive leader.

### **Is the loya jirga process democratic?**

The loya jirga is a relatively representative process, but it is not fully democratic. Most electors are chosen at the local level, by *shuras*: groups of elders considered to represent the respected or powerful families in the region. The criteria for deciding who sits on shuras are complex, unwritten, and fluid; and the groups are often controlled by the most economically or militarily powerful forces in the region. As a result, political, gender-based, and ethnic inequalities are widespread.

Despite all this, under the fragile and unique circumstances of Afghanistan (and taking into account respect for the country's history and culture); the loya jirga process is likely to be the best process now possible. Fully representative elections cannot be held at this time due to the instability of the country and ongoing armed conflict. In the meantime, a successful outcome to the loya jirga process would promise a stable government with a higher measure of authority than the Interim Administration set up under the Bonn Agreement. And if the process succeeds, it will also set the stage for later elections aimed at selection of a fully democratic government.

### **Will women be a part of the loya jirga?**

Yes. It is not known how many women will be elected through the regular electoral process (few are expected: there are entrenched traditional attitudes in Afghanistan constraining women from participating in political processes, and security concerns inhibiting women from traveling to regional centers), but several women representatives are guaranteed seats in the loya jirga through the parallel appointment process described above. One hundred seats are guaranteed for

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(ROCs). Each of the eight ROCs is then responsible for hearing complaints about the process, certifying the final list of electors, and certifying the results of the elections.

female representatives as such; in addition, 25 of the 100 refugee seats to be appointed are allotted to women, and another 35 seats for females are allotted in the professional, governmental and other representatives groups. All together, 160 seats are guaranteed to women, a representation of 11 percent, although the Ministry of Women's Affairs called for 25 percent on International Women's Day on March 8, 2002, in Kabul.

### **What is the role of the Interim Authority and Chairman Hamid Karzai?**

Under the Bonn Agreement, Chairman Karzai and the Interim Administration are given the mandate to lead Afghanistan until the loya jirga chooses a new Transitional Administration to succeed it. The loya jirga could choose Hamid Karzai to continue leading Afghanistan, and some of the ministers in the interim authority could also be picked as ministers in a new government. Still, whatever happens, the Bonn Agreement specifies that there will be a transfer of power from the current government to the next one. The Bonn Agreement (part I.B) states: "The Interim Authority shall cease to exist once the Transitional Authority has been established by the Emergency Loya Jirga."

### **When will the next government take power?**

The rules and procedures for the loya jirga, issued in March, specify that the entire process must conclude by June 16. Presumably, when the loya jirga finishes and selects a new government, the body will name a date for the transfer of authority to the new government. This could be done immediately after June 16, or at a later date.

### **What is the role of the former king Zahir Shah?**

Under the Bonn Agreement, the loya jirga is to be opened by Zahir Shah. This is essentially a symbolic act: the former king may give a speech and then signal the start of the debate and discussions. It is not expected that the former king will himself take part in the process; however, some of his representatives will likely be elected to the body and some are to be appointed by the loya jirga commission as members of the current interim authority.

### **Will past human rights abusers be sidelined from the loya jirga?**

Under rules announced by the loya jirga commission, all delegates to the loya jirga must sign an affidavit that attests that they have not taken part in criminal activities or human rights abuses in the past. The document binds the delegates to "give an account" of themselves if the affidavit is falsely signed. In addition, all local leaders who want to take part in the process must resign their local government posts to take part. It is hoped that these measures will help to sideline some past offenders, although the loya jirga commission lacks the capacity and resources to systematically investigate all delegates' respective records.

Members of the Interim Administration will also be participants in the loya jirga. Some of these administration members, as well as some local governors, are military commanders who derive their authority from control of districts and provinces. Some have been implicated in human rights abuses and even war crimes but may nonetheless end up taking part in the loya jirga.

## What are other potential threats to the loya jirga process?

Afghans of varied ethnic, geographic, and class backgrounds have voiced concerns to Human Rights Watch that local commanders—at the behest of regional warlords—may use intimidation and violence to keep candidates representing local minorities and opposing political groups from participating in important regional meetings or traveling to provincial election sites. Some areas of concern:

- Roadside checkpoints and district and territorial boundaries could be critical areas in which abuses take place; already, Human Rights Watch has received reports of Pashtun armed groups in the south singling out minority Farsiwan and Hazara civilians on roads leading to Kandahar for questioning, searches, and bribe-solicitation.
- Ethnically targeted attacks in northern Afghanistan have led to the displacement of thousands of Pashtun civilians since November, documented in a recent Human Rights Watch report [\*Afghanistan: Paying for the Taliban's Crimes: Abuses Against Ethnic Pashtuns in Northern Afghanistan\*](#). This displacement, and continuing security concerns for those Pashtuns who remain in their home villages and districts, could prevent many northern Pashtun communities from being represented in the Loya Jirga process.
- Regional warlords effectively control *shuras* in some parts of the country. In western Afghanistan, for example, Human Rights Watch has received reports that the Herat-based commander Ismail Khan has ensured that local *shuras* are dominated by like-minded Farsi-speaking representatives, to the exclusion of his political opponents and members of regional ethnic minorities.