

Text of Presidential Decree on Constitutional Loya Jirga (CLJ)

Article 1: Procedure of the Loya Jirga.

Taking into account the history and the worthy national traditions of the Afghan people and in accordance with the Bonn Agreement, the Loya Jirga of the people of Afghanistan is to be held in Kabul in accordance with the following composition and procedure to approve the constitution the draft of which has been prepared by the Constitution Commission.

Article 2: Structure and number of members.

1. The Loya Jirga to approve the constitution should have 500 members. Of these 450 are elected members and 50 will be selected.

2. The 450 elected members will be elected in the following way:

a. The 15,000 district representatives who had been elected from their relevant districts for the Emergency Loya Jirga in Jawza 1381 [May-June 2002] will elect 344 members [for constitutional Loya Jirga] through secret ballot.

b. According to Article 5 of this decree, 42 members will be elected by representatives of Afghan refugees in Iran and Pakistan, displaced people in the country, nomads, Hindu and Sikh [minorities], 15 percent of whom must be women.

c. Representatives of women in 32 provinces must elect 64 women members.

d. According to Article 6 of this decree, the head of the Transitional Islamic State of Afghanistan will select 50 members. In addition, the following people will be invited to the Loya Jirga as observers.

e. Members of the cabinet of the Transitional Islamic State of Afghanistan (33 people).

f. Head of the Supreme Court (one person).

g. Chairman and members of the Constitutional Commission (35 people).

i. Head of the Independent Judicial and Justice Commission

and head of the Afghan Independent Human Rights Commission (2 people).

The observers do not have the right to vote or express an opinion during the Loya Jirga discussions, but only if members of the Loya Jirga ask them particular questions or their opinion.

Governors, deputy governors, mayors, army personnel, police, and National Security Department and other senior government personnel are not eligible to participate in the Loya Jirga to approve the constitution.

Article 3: Elections criteria.

a. Election of members of the Loya Jirga to approve the constitution must take place in a just and open atmosphere free of any interference, trouble, political influence, and national and regional tendencies.

b. Patriotism, national unity, and the interests of the Afghan people are considered to be the basic criteria.

c. The electorates must try to elect educated people with sufficient influence who

must have basic knowledge of the principles of the constitution.

Article 4: Procedure for election of members of the Loya Jirga.

a. District representatives in the Emergency Loya Jirga [2002] should gather in provincial capitals in Asad [23 July-22 August 2003] and Sonbola 1382 [23 August-22 September 2003]. Detailed information will be given about the criteria and procedure of elections of the Loya Jirga in these gatherings. In the event of the death of a district representative, people of the district should elect and send another person to the capital of the province.

b. District representatives must gather in Kabul, Jalalabad, Mazar-e Sharif, Herat, Kandahar, Bamian, Konduz, and Gardayz cities in Sonbola 1382 [23 August-22 September] and elect members of the Loya Jirga through secret ballot. Elections must take place on the basis of administrative units of a province. The number of elected members from each province must be equal to the number of representatives of the province in the Emergency Loya Jirga [2002].

Article 5: Election of representatives of women, refugees, internally displaced people, nomads, Hindus, and Sikhs.

a. Women should gather in every province and elect two members for the Loya Jirga to approve the constitution through secret ballot.

b. Afghan refugees in Pakistan and Iran should elect and introduce 24 members through open discussions.

c. Internally displaced people in Herat, Kandahar, and Helmand Provinces must participate in provincial gatherings and elect six people.

d. Nomads should hold gatherings according to instruction of their leaders and elect nine people after necessary discussions.

e. Hindus and Sikhs must elect three representatives after necessary discussions for the membership of the Loya Jirga.

Article 6: Selected members.

The head of the Afghan government will select 50 members of the Loya Jirga to approve the constitution, 25 of which will be eligible women, and the other 25 members will be chosen from among the lawyers, constitution experts, and intellectuals by the head of government.

Article 7: Management of elections.

Election of members for the Loya Jirga will be managed according to Article 4 and Article 5 under the supervision of the Secretariat of the Constitutional Commission. The secretariat must take due measures with the help of government departments and NGOs to hold elections effectively.

Article 8: Ensuring security during the elections.

To ensure full security, the Interior Ministry must take general security measures and must deploy a special security unit. This unit must operate in close cooperation with the secretariat of the Constitutional Commission. It is the responsibility of the special unit of the Interior Ministry to send forces to regional and provincial gatherings and polling places and the place where the Loya Jirga will be held to ensure their security. This unit will get complete training with the help of the secretariat of the Constitutional Commission to get acquainted with the management of elections.

Article 9: Executive Committee.

a. An executive committee comprising the following people must be set up to observe the convocation of the Constitutional Loya Jirga and the election of its members:

1. Head of the Constitutional Commission [Nematullah Shahrani].
2. Interior Minister [Ali Ahmad Jalali].
3. Justice Minister [Abdul Rrahim Karimi].
4. Chief Prosecutor [Abdul Mahmud Daqiq].
5. Head of the Afghan Independent Human Rights Commission [Sima Samar].
6. Special envoy of the United Nations secretary-general or his representative as an observer.

b. The executive committee will take measures after evaluating the following issues:

1. Gathering complaints about threats, acts of terror, exerting pressure, interference, and other violations.
2. To find out, arrest, punish, and stop the violators.
3. Observe the process of election of members of the Loya Jirga.
4. To ensure cooperation by government officials, tribal leaders, and religious personalities with the process of election.

c. The executive committee must establish sub-committees in the provinces to effectively observe the election of members of the Loya Jirga and maintain permanent communications with regions to get continuous information about the progress of affairs as well as to send regular instructions.

d. The executive committee and Secretariat of the Constitutional Commission must ensure the application of this order.